

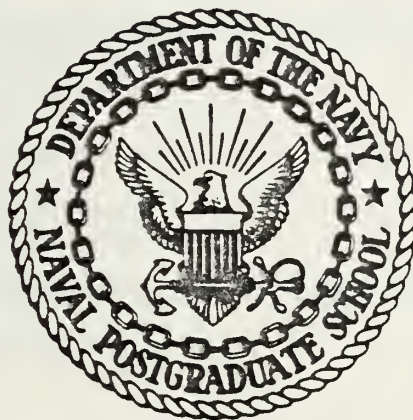
GOVERNMENT ACQUISITION OF COMMERCIAL PRODUCTS
WHAT IS THE POLICY?

Richard W. Kirtley

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THESIS

GOVERNMENT ACQUISITION OF COMMERCIAL PRODUCTS
WHAT IS THE POLICY?

by

Richard W. Kirtley

December 1979

Thesis Advisor:

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T191985

REPORT DOCUMENTATION PAGE		READ INSTRUCTIONS BEFORE COMPLETING FORM
1. REPORT NUMBER	2. GOVT ACCESSION NO.	3. RECIPIENT'S CATALOG NUMBER
4. TITLE (and Subtitle) Government Acquisition of Commercial Products What is the Policy?		5. TYPE OF REPORT & PERIOD COVERED Master's Thesis December 1979
7. AUTHOR(s) Richard W. Kirtley		6. PERFORMING ORG. REPORT NUMBER
9. PERFORMING ORGANIZATION NAME AND ADDRESS Naval Postgraduate School Monterey, California 93940		8. CONTRACT OR GRANT NUMBER(s)
11. CONTROLLING OFFICE NAME AND ADDRESS Naval Postgraduate School Monterey, California 93940		10. PROGRAM ELEMENT, PROJECT, TASK AREA & WORK UNIT NUMBERS
14. MONITORING AGENCY NAME & ADDRESS (if different from Controlling Office) Naval Postgraduate School Monterey, California 93940		12. REPORT DATE December 1979
		13. NUMBER OF PAGES
		15. SECURITY CLASS. (of this report) Unclassified
		18a. DECLASSIFICATION/DOWNGRADING SCHEDULE
16. DISTRIBUTION STATEMENT (of this Report) Approved for public release; distribution unlimited		
17. DISTRIBUTION STATEMENT (of the abstract entered in Block 20, if different from Report)		
18. SUPPLEMENTARY NOTES		
19. KEY WORDS (Continue on reverse side if necessary and identify by block number) commercial products, commercial items, off-the-shelf products, specifications		
20. ABSTRACT (Continue on reverse side if necessary and identify by block number) The development of the current policy within the Department of Defense regarding the acquisition of commercial products is traced from its roots within the Report of the Commission on Government Procurement through present attempts to implement the Acquisition and Distribution of Commercial Products Program. Pending publication of the proposed Federal Acquisition Regulation (FAR), there is no official separate policy in this area		

(continuation of abstract)

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What is the Policy?

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Submitted in partial fulfillment of the
requirements for the degree of

MASTER OF SCIENCE IN MANAGEMENT

from the

NAVAL POSTGRADUATE SCHOOL
December 1979

ABSTRACT

The development of the current policy within the Department of Defense regarding the acquisition of commercial products is traced from its roots within the Report of the Commission on Government Procurement through present attempts to implement the Acquisition and Distribution of Commercial Products Program. Pending publication of the proposed Federal Acquisition Regulation (FAR), there is no official separate policy in this area except a brief statement issued by memorandum from the Office of Federal Procurement Policy and repeated in a Department of Defense Directive. However, based on the potential savings of time and money exhibited in numerous test acquisitions, it is the conclusion of the researcher that official policy is necessary, but that it should be implemented with far more flexibility than proposed in the draft implementation documents reviewed. Acquisition personnel should not be constrained by exacting definitions and clauses addressing such areas as "commercial market acceptability", but should work within general guidelines allowing subjective evaluation of alternatives.

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I. INTRODUCTION

The Federal Government is the largest single buyer of commercial products or modified commercial products [57].

In its introductory comments in the area of commercial products, the Commission on Government Procurement (COGP) summarized the interaction of the Government and the commercial market as follows [55:5]:

As a buyer of commercial products, the Government has little influence on industrial practices. Prices are established by competitive demand in the open market, not by cost analysis. However, the procedures used to sell to the Government and the degrees of risks assumed by sellers under Government contracts differ from standard commercial procedures and contracts.

The Government procurement process requires potential suppliers to develop an information base concerning Government needs and to respond to contractual solicitations in unique ways. These needs are expressed almost exclusively through specifications or purchase descriptions. Frequently, aggregate requirements for specific products or services may be consolidated for central procurement by a designated agency. Customer services or other assistance normally offered to users in the private sector are generally considered unnecessary by most Government buyers in the interest of securing the lowest possible price and of avoiding the appearance of favoritism.

A. OBJECTIVES

The objectives of this research effort are: (1) to briefly trace the development of current policy within the Department of Defense regarding the acquisition of commercial products, from the recommendations in this area by the Commission on Government Procurement, through current attempts to implement the Acquisition and Distribution of Commercial

Products (ADCP) Program; (2) to identify and discuss major implementation obstacles and proposed solutions; (3) to analyze the anticipated benefits of programs promoting commercial product acquisition; and (4) to provide a prognosis for formal implementation, i.e., where is the commercial product acquisition program going?

B. RESEARCH QUESTION

In order to appropriately address the objectives of this study the following research question is presented: What is the current policy on buying commercial products within the Department of Defense; how did it evolve; how is the current policy implemented; what are the problems inherent in formal implementation?

Subsidiary questions are addressed as follows: (1) is the current policy compatible with the existing acquisition environment in DOD, (2) how does the Acquisition and Distribution of Commercial Products (ADCP) Program interface with, or affect, existing policies concerning specifications and standards; and what are the expected benefits of the current policy to DOD as a whole?

C. SCOPE, LIMITATIONS, AND ASSUMPTIONS

Although the policy analysis portion of this paper necessarily begins with overall Federal Government policy, further agency policy development and implementation focuses on the Department of Defense. It should be realized, that, while a few other Federal agencies are mentioned for

emphasis or clarity, there are many actions in the area of commercial commodity acquisition occurring in other agencies which are not mentioned in this paper.

The title of the latest formal program on commercial commodity acquisition is the "Acquisition and Distribution of Commercial Products." While this paper naturally addresses some logistics concerns, the thrust is toward the "Acquisition" portion, and the discussion of logistics areas are purposefully brief.

The policies and procedures utilized within the Government to acquire commercial products are currently in a state of flux, as evidenced by the background material...witness the fact that the policy statement for the new Federal Acquisition Regulation (FAR) is in its third draft. Therefore any conclusions and recommendations offered are necessarily "point-in-time," and could soon be overtaken by events.

D. METHODOLOGY

1. Primary Research

a. The initial literature search revealed a myriad of professional articles generated by the Report of the Commission on Government Procurement and three subsequent policy memoranda from the Office of Federal Procurement Policy.

b. Following the initial literature search, a two-day policy status trip was arranged to Washington, D.C., specifically to discuss commercial commodity acquisition policy and responsibility within the Department of Defense.

2. Secondary Research

a. A two week fact-finding trip to Washington, D.C. included visits and interviews with all major participants in the commercial commodity acquisition policy arena. Highlights included a meeting between the FAR Project Office representatives, and Department of Defense (DOD), Defense Material Specifications and Standards Office (DMSSO), and Office of Federal Procurement Policy (OFPP) representatives for discussion of proposed FAR coverage of the area in question, and interviews at the Department of Defense, Office of the Undersecretary of Defense, Research and Engineering (USDR&E); the Office of the Secretary of the Navy, Manpower, Reserve Affairs, and Logistics (MRA&L), the Naval Material Command (NAVMAT), the Naval Air Systems Command (NAVAIR), the Naval Sea Systems Command (NAVSEA), the Naval Electronic Systems Command (NAVELEX), and the Defense Logistics Agency (DLA).

b. Throughout the data analysis and draft preparation of this paper, continuous updating phone calls took place with representatives from the majority of the offices mentioned above.

E. LITERATURE REVIEW

The 1972 Report of the Commission on Government Procurement (COGP) provided the impetus for the current flurry of activity concerning the acquisition of commercial products. Numerous General Accounting Office (GAO) reports are available on the subject throughout the period from the

Report to the present, some directly related to the Report in the form of status reviews, and others on peripheral subject matter. Following the issuance of three policy memoranda from the Office of Federal Procurement Policy on commercial product acquisition, based on the recommendations by the COGP, numerous articles appeared on the subject in various professional magazines, such as the Defense Management Journal, Army Research and Development, and Contract Management National Contract Management Association (NCMA). As a result of the Washington visit, numerous drafts of unpublished policy documents were obtained, including three drafts of proposed FAR coverage, and other agency directives and instructions on the subject. All of the literature mentioned above is discussed herein, in either the background presentation or the discussions on policy and implementation; some are discussed in detail, while others are mentioned in passing.

F. KEY DEFINITIONS/ABBREVIATIONS

Definitions and abbreviations are contained in Appendix A.

G. ORGANIZATION OF STUDY

Following this "Introduction" are chapters on the "Framework"(Chapter II), placing perspective on this research area in respect to general acquisition policies and procedures, and "Background" (Chapter III), providing the reader with, essentially, a chronological progression of policy development and related reports up through "Current Policy

Analysis" (Chapter IV). Chapter V is a policy "Implementation Analysis," including illustrated potential through analysis of actual substitute, commercial product acquisitions. Chapter VI presents the studies conclusions and recommendations.

II. FRAMEWORK

The Office of Management and Budget (OMB), OMB Circular No. A-76 states that "it has been and continues to be the general policy of the Government to rely on competitive private enterprise to supply the products and services it needs" [52]. Acquisition policy within the DOD generally supports that doctrine, and the trend is to increase that reliance. This is witnessed by the continuing revisions of A-76, with its emphasis on contracting out for services, and OMB Circular No. A-109, emphasizing the expression of needs and program objectives in mission terms vice equipment terms to encourage innovation and competition.

Interviewees indicated, however, that a void remains in the Government's reliance on the private sector in the areas other than services and major systems, i.e., other end items, equipment, components and material. Federal agencies have historically developed and relied on detailed design specifications to identify and define items in these categories. Over the years, use of these specifications has excluded commercial products from consideration, and resulted in made-to-order products for the Government. Procurement by detailed design specifications may cost more than open market buying because of added requirements placed on suppliers by the Government. In many cases a simple change to provide for uniformity might serve to convert an

existing commercial item to one that meets the specification. This paper therefore investigates the continuing attempt on the part of the Federal Government (with emphasis on the Department of Defense) to fill the "void" with a definitive policy on how commercial commodities should be acquired. Prior to this investigation, however, it would be helpful to provide an overview of the Defense Specifications and Standards Program, and, also, a brief look at the methods currently most frequently utilized in the acquisition of commercial products.

A. THE DEFENSE SPECIFICATIONS AND STANDARDS PROGRAM

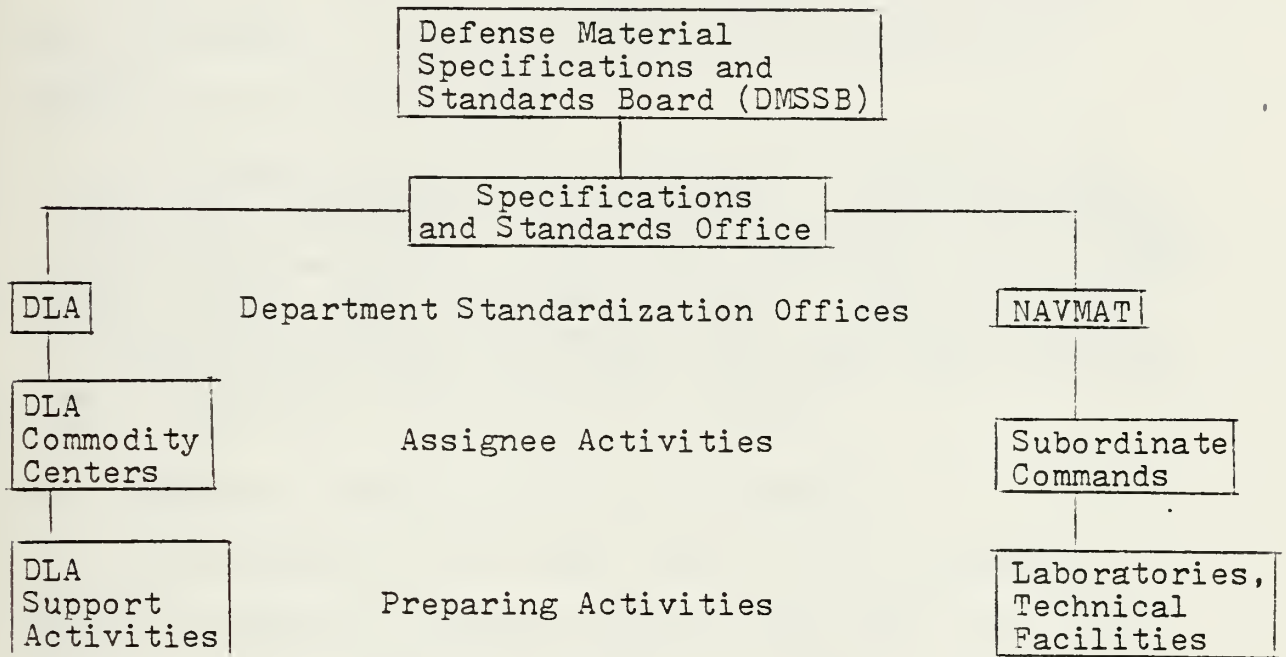
While primary responsibility for overall specification and standard management rests with the General Services Administration, authority is delegated to the Department of Defense for management of Military Specifications and Standards.

The principal executive for specification policy is the Director for Material Acquisition Policy in the office of the Deputy Under Secretary of Defense (R&E) (Acquisition Policy). He is the chairman of the Defense Material Specifications and Standards Board (DMSSB), composed of top managers from each military service and the Defense Logistics Agency (DLA). The Defense Material Specifications and Standards Office (DMSSO), located in the DLA Administrative Support Center, serves as the secretariat.

The DMSSB sets objectives, makes assignments, and recommends changes to the specifications and standards

program. If necessary the Board establishes panels in selected areas, such as electronics, audiovisual, clothing and textiles, etc.

The basic organizational levels are indicated below, utilizing DLA and the Navy as examples:



Assignee activities develop annual specification management plans for each federal supply class, and approve new standardization projects. They are also the "policy watchers," ensuring compliance with such policies as the Acquisition and Distribution of the Commercial Products Program addressed in this paper. The assignee activity designates the organizational elements that will prepare or revise specifications and standards. A recent article in the Defense Management Journal commented on the effectiveness of the system as follows [60]:

The multilayered organizational structure has been criticized as being so diffuse as to inhibit management direction, and several studies have indicated a greater need for centralization of authority. However, the magnitude of DOD, the diversity of service objectives, and the inherent nature of specification development tend to cast great doubt on the efficacy of a centralized management approach.

One final item of particular interest in this area, also discussed in the same article quoted above, is summarized as follows [60]:

Although the Department of Defense recognizes the need for a standardization strategy, it has not formally publicized its goals. The Defense Material Specifications and Standards Board met only twice in 1975, once in 1976, once in 1977, and not at all in 1978. Thus is not surprising that service commanders lack a strong commitment to the accomplishment of tasks associated with a uniform and coordinated specifications program.

B. COMMERCIAL PRODUCT ACQUISITION METHODS

Any discussion on the best way for the Government to acquire commercial products produces advocates for everything from sealed-bid awards based on design specifications to multiple award schedules. Basically, those supporting the sealed-bid approach argue that specifications can be developed for every Government requirement. Some of these supporters are beginning to advocate the use of functional or design specifications, calling for simplified, shortened purchase descriptions to assure maximum competition, without the need to maintain detailed Federal or Military Specifications. Others support the related "two step" procurement, whereby contractors offer a product design in response to a functional specification, and those who's designs are

acceptable submit sealed-bids for award based on price competition as the second step [67].

Advocates of the multiple award schedule system argue that the Government inhibits the introduction and use of new technology by developing specifications, whether design or functional, and making single awards. They further suggest that this method allows the Government to take advantage of off-the-shelf delivery, local service, and better warranties. The final argument for multiple award schedules concerns small businesses, all around the country, who, under this method, may compete in their geographical area the same way they compete for commercial business [67].

Legally, under the Federal Property and Administrative Services Act of 1949 and the Armed Services Procurement Act of 1947, as implemented in the Defense Acquisition Regulation, the solution as to the best method is simple, i.e., the preferred method of procurement is the competitive sealed-bid approach, requiring the development of product specifications, if possible, and award to the lowest responsive and responsible bidder. This method is especially effective to procure items that are not generally subject to technological improvements, such as paint, paper, packaging, or raw materials.

The multiple award schedule system is utilized by GSA, wherein they negotiate multiple, indefinite quantity, annual contracts with contractors who offer similar products. The system is loosely justified by the exception

allowing negotiation when it is "impossible to develop an adequate specification." This method assures the Government of receiving commercial off-the-shelf products and utilizing commercial distribution systems; however, it directly opposes standardization.

Whereas the two methods previously discussed are utilized in acquiring commercial products for centralized supply systems, in point of fact, many agencies with differing requirements for commercial products, ignore the centralized system and utilize what is referred to as "open market" procurement. In this method, requiring agencies may also use sealed-bid, competitive negotiation, or small purchase procedures, and deal directly with the contractor. This method would become more and more prominent under the new policy concepts discussed in this paper.

III. BACKGROUND

A. RECOMMENDATIONS OF THE COMMISSION ON GOVERNMENT PROCUREMENT

The recommendations of the Commission on Government Procurement indicated the need for a shift in fundamental philosophy relative to commercial product procurement. They pointed out that the cost of commercial items generally increased in proportion to the distance between requestor and purchaser; that reliance on specifications necessarily trailed the development of commercial products; that the larger the chain of requirement submission, the more change, simplification, or substitution; and that formal statements of need were "cluttered" with protective and explanation clauses. Within the discussion of the use of specifications lay the recommendation which was to have the most impact on future policy for the acquisition of commercial products [55:18]:

Require that development of new Federal Specifications for commercial type products be limited to those that can be specifically justified, including the use of total cost-benefit criteria. All commercial product-type specifications should be reevaluated every five years. Purchase descriptions should be used when Federal specifications are not available.

It was also noted that most Federal specifications for commercial products begin with a company's specification (or several companies) circulated for change and/or comment,

and finally published, a procedure which is "costly, time consuming, and often poorly coordinated" [55:19].

Following a discussion of the problem involving the ungainly number and age of existing specifications and the inherent problem of referencing, the report summarized other problems as follows: [55:20]

- (1) greater cost of specification when a comparable commercial product exists
- (2) federal specifications with specific designs may deny the Government the benefits of technological progress
- (3) overly strict interpretation forces producers out of Government work, reducing competition
- (4) specifications establish minimum quality level, negating offer of better quality
- (5) specifications and standards result in averaging of requirements; needs below the average are raised, while those above are satisfied by exception

The generally accepted interpretation of the recommendations of the COGP was that agencies should meet their procurement needs whenever possible from products regularly manufactured and sold in the commercial market place.

B. POLICY ON THE ACQUISITION OF COMMERCIAL PRODUCTS DISSEMINATED BY THE OFFICE OF FEDERAL PROCUREMENT POLICY

In May 1976, the recommendations of the COGP became policy when OFPP issued a policy memorandum stating that [51]:

The Government will purchase commercial, off-the-shelf products when such products will adequately serve the Government's requirements, provided such products have an established commercial market acceptability. The Government will utilize commercial distribution channels in supplying commercial products to its users.

This policy called for a change in philosophy and distribution cost by [51]:

- (1) stimulating competition
- (2) taking advantage of industry's innovativeness and technological advances

- (3) avoiding specification development costs
- (4) reducing risk and costs associated with the storage handling, and shipment of goods

The policy implied that detailed specifications were not needed to either acquire or ensure the quality of an item that has passed the competition test and been accepted in the commercial market place. It further implied that the Government should be able to establish performance and reliability of a commercial product through an effective market research effort.

In a more specific policy memorandum in December 1976, OFPP directed incremental implementation through test programs on specified items [49].

The original policy objectives were fine tuned in the December 1976 memorandum including specific guidance to maximize the use of commercial distribution channels; reduce the number of Government stocked commercial items; eliminate all unnecessary Government Specifications for commercial products or the packaging of such items; and tailor Government Specifications that cannot be eliminated to reflect commercial practices to the maximum extent [19].

Each agency was directed to "develop a general plan for procuring and supporting commercial items," and to submit completed plans to the Administrator of OFPP [19]. Agencies were directed to identify any constraints to implementation of the new policy including examination of requirements,

forecast planning, market research, specifications, socioeconomic impact, standardization, product inspection, and others.

In their general guidance concerning the planning and analysis phase, OFPP suggested that regulations not be changed pending experience with the new policy, and further that [49]:

- (1) the Government coordinate its forecasting of demands with industry
- (2) market research techniques be required to gather data on products, including quality, prices, producers, distribution channels, and equitable formulas for selection of qualified products
- (3) improved management of warranties

The final discussion on specifications directed that overly stringent Government Specifications be eliminated, and that a system of purchase item descriptions be built with an "update system" to simplify the competitive purchases of commercial products. The need was recognized for closer coordination between requirements developers, specification writers, and industry. The creation of commercial-type items by fragmenting features of already market-accepted commercial products was prohibited [49].

A final memorandum in December of 1977 summarized progress, formally incorporated individual agency programs, including DOD's Commercial Commodity Acquisition Program (CCAP), (discussed later in this chapter), and proposed a vigorous schedule of major events [50]. Most of these milestones have already been missed; for example, publishing of

uniform regulations, procedures, and techniques was scheduled for March 1979.

C. ACQUISITION OF COMMERCIAL PRODUCTS WITHIN THE DEPARTMENT OF DEFENSE

Prior to the findings of the Commission on Government Procurement, no specific policy existed within the DOD for acquisition of commercial products. However, as a result of the Federal Property and Administrative Services Act of 1949 (which required GSA to establish and maintain a Federal Supply Catalog System and to prescribe standard purchase specifications), and the Defense Cataloging and Standardization Act of 1952 (which provided for standardization through, the utilization of specifications and standards), by 1972 there were more than 36,000 specifications in use (more than 31,000 within the DOD) [55:19]. The proliferation of specifications and the requirement for their use for recurring requirements, Defense Acquisition Regulation (DAR) 1-1202(a), led to many of the problems cited by the COGP, and the subsequent recommendations for a policy change.

Perhaps anticipating the OFPP policy statements, DOD awakened its own interest, first through a memorandum in December 1975 discussing the general application of commercial products to DOD requirements and establishing a steering group to study the idea [2], and finally in a January 1977 memorandum formally establishing the "Commercial Commodity Acquisition Program (CCAP) [3]." Whereas, the test program

established by OFPP utilized small dollar value, rapid utilization, stock items such as electrical, plumbing and photographic supplies within DOD, CCAP nominated current user requirements for more sophisticated larger dollar value material, including an airborne navigational receiver (ARMY), an airborne video tape recorder (Air Force), and a navigation system (NAVY). The idea was "to exert the greatest effort, in terms of planning and management, in those product areas which promised the greatest payoff in cost-of-ownership savings [41:34]." Additional advantages were anticipated through lower unit costs since DOD would only pay a small share of the R&D, and take advantage of lower costs due to high-volume commercial production. The CCAP's sister program, Commercial Item Support Program (CISP), was established to review the minimum level of centralized management required for all potentially commercial items, while emphasizing maximum use of commercial distribution channels. Both programs were incorporated by OFPP's December 1977 memorandum into the overall policy now formally titled the Acquisition and Distribution of Commercial Products (ADCP) [50].

D. GENERAL ACCOUNTING OFFICE REPORTS IN REGARD TO FEDERAL ACQUISITION OF COMMERCIAL PRODUCTS

The General Accounting Office has closely monitored actions based on recommendations of the COGP. In addition to periodic summary reports, they have also completed in-depth studies and reports on specific items of interest.

One such study and subsequent report in 1977 considered the application of Government specifications for commercial products [32]. The general conclusion of the report was that due to numerous conflicting factors, and the complexity of Government Specification for commercial products, no one approach is appropriate for the acquisition of commercial products. In other words, "sound judgement and common sense must be exercised on an individual case by case basis [32:17]." According to GAO, the need exists to give greater attention to costs associated with specification development and maintenance, as well as improved specification management.

In a status report issued 31 July, 1978 on those recommendations of the COGP calling for legislative action, GAO stated [33:19]:

At present, procurement regulations actually encourage procurements based on government specifications instead of competition between available commercial products. Legislation may be needed to explicitly encourage use of competition among commercial products and to restrict issuance of new Federal Specifications.

Legislation is in process to modernize existing procurement statutes. Enactment of this or similar legislation could lead the way by emphasizing the desirability of purchasing off-the-shelf commercial products, cutting down on Government Specifications, removing any lingering legal constraints, and helping to overcome traditional resistance to change [2].

The report also noted that there had been no comment to date on two specific aspects of the Commission's recommendation, i.e., use of industrial funding, and continuous evaluation of procurement and distribution systems on a total cost basis. These recommendations were to force

recognition of costs hidden by the limiting of handling charges levied by GSA on interagency product transfers, thus leading to understated catalog prices.

Commenting on the Defense Logistics Agency Test CCAP achievements in the procurement of clothing and textiles at the Defense Personnel Support Center (DPSC) in April 1979, GAO recommended, among other things, that the Secretary of Defense "direct DLA and DPSC to immediately implement the ADCOP policy on a full-scale basis, and to commit adequate staff resources to the effort [34]." The responses of DLA and the DOD are discussed in Chapter V.

In a 31 May 1979 report, partially entitled "A Final Assessment," GAO summarized progress in the area of commercial product reform by stating that "Although there have been significant individual buys of commercial products, Federal agencies have been slow to respond and key actions are still required to fully integrate the policy into procurement practice [35:46]." The "key actions" remaining included [35]:

- (1) linking commercial products procurement with greater use of commercial distribution systems
- (2) developing the proper model and organizational structure to assure effective market research
- (3) giving sufficient resources and attention to reviewing existing specifications
- (4) restricting Government Specifications in purchase descriptions, and
- (5) furnishing additional policy guidance to operating agencies.

E. DEFENSE SCIENCE BOARD TASK FORCE STUDIES

Several task forces organized by the Defense Science Board in the 1970's have addressed problems concerning the utilization of specifications in the acquisition of commercial products.

1. Task Force on Reducing Costs of Defense Systems Acquisition

Although mainly addressing commercial versus DOD practices in regard to "Design-to-cost," the report of this task force in March 1973 addressed several areas common to systems and commercial product acquisition. For example, the report states that [18]:

the volume of specifications required for the design and operation of a commercial transport is contained in approximately 290 pages; the volume of specifications required by DOD for the design of a single airplane model may require 300 to 600 first-tier MIL-SPECS alone, and tens of thousands of pages.

While many of the problems addressed in this report have been overtaken by OMB Circular A-109, "Major Systems Acquisition," some remain current. Another example cited was the DOD procedure, having selected an item of commercial equipment for a contract, of assigning Federal Stock Numbers to commercial part numbers, but reverting back to the commercial part number when affecting the procurement. The report questions here the cost effectiveness of the DOD Standardization Program. The recommendations of the COGP, OFPP, and GAO were echoed concerning utilization of functional specifications, and greater use of the commercial equipment base.

In its final, long term recommendations the task force "stole the thunder": from OFPP's later policy, by recommending [61]:

That a separate procurement regulation be issued to cover commercial type equipments. It would specify only performance requirements to meet the needs of the user. This new procurement regulation would eliminate the lengthy parts listings and numbering systems, and take advantage of producers' world-wide standard parts distribution system. DOD could then depend on commercial parts service and maintenance manuals, which are much simpler to follow than DOD technical manuals, and use the producers' standard method for identifying superseded parts. Thus DOD could rely on producers, and more frequently than not, the product/equipment would be more advanced, contain the latest improved materials, and parts available, and be of higher quality.

2. Task Force on Electronic Test Equipment

This task force reported its findings and recommendations in February 1976. They noted that the services often use military specifications calling for specially designed electronic test equipment when modified-commercial or off-the-shelf equipment would perform the required function. They further related that using these specifications tended to complicate contract administration and increase costs, delay delivery, foster the production of obsolescent equipment, sharply increase logistics support costs, and create operational, maintenance, and calibration problems. The task group's 28 recommendations included requiring justification for development of a new military specification where off-the-shelf equipment can meet requirements, and reducing over-application of specification requirements such as those dealing with environmental

requirements; military parts, materials, and processes; and excessive drawing and documentation requirements [20].

3. Task Force on Specifications and Standards

The major emphasis of this study was on non-product specifications and standards, such as quality control, configuration management, reliability and maintainability, etc. They considered that the main problems did not evolve from the detailed content of the specifications, but rather from their over-application and enforcement [19]. They did concur with other studies, however, in their recommendations to foster increased use of applicable commercial specifications and standards.

F. BACKGROUND SUMMARY

The recommendations of the COGP in regard to Federal Government acquisition and utilization of commercial products, and their subsequent formalization by OFPP, have created a flurry of activity in the Government, including the Department of Defense.

Officials at all levels have created staffs, committees, and study groups to interpret the policy and search for implementation vehicles, such as instructions, pamphlets, or handbooks.

The Department of Defense, claiming its own initiative, started the CCAP program, which moved the thrust of the policy from small dollar value, stock items, bought to existing specifications and standards, to large dollar value, sometimes unique, sophisticated systems, sub-systems and components.

The following chapter examines the attempts at all levels to expand and publish the policy in either existing or new documents, from the proposed Federal Acquisition Regulation to the DOD Directive and related documentation.

In reading subsequent chapters, it is important to keep in mind the relatively simple (in theory) concept of the proposed policy, i.e., the utilization of existing commercial products and commercial distribution systems, where feasible and cost effective, to meet Government requirements.

IV. CURRENT POLICY ANALYSIS

This chapter provides an update and analysis of current policy discussions and actions within Congress and the Executive Branch, including OFPP and DOD, affecting the acquisition of commercial products.

A. THE FEDERAL ACQUISITION REFORM ACT (SENATE BILL S.5)

This bill, introduced in the first session of the 96th Congress, is intended to provide additional implementation of many of the COGP recommendations. The bill was originally introduced in the 94th Congress as S.3005, and subsequently in the first session of the 95th Congress as Senate Bill S.1264. Many of the findings, conclusions, and recommendations of the COGP permeate the bill from its first declaration of policy, which summarizes the overall commission report; i.e., purchasing laws are outdated, fragmented and inconsistent; the result is inefficiency, ineffectiveness, and waste in Federal spending; a new consolidated statutory base is needed; and existing statutes need to be modernized to focus on effective competition and new technology [27:3].

In the area of commercial product acquisition the bill addresses some specifics, while other, more general sections encompass the entire spectrum of reliance on the private sector; i.e., major systems doctrines as contained in OMB Circular A-109, the commercial-industrial programs of OMB

Circular A-76, and the objectives of the OFPP Acquisition and Distribution of Commercial Products program.

The following areas are cited as examples [27:4-41]:

SEC.2.(b)(3) encourage innovation and the application of new technology as a primary consideration by stating agency needs and analyzing the market so that prospective suppliers will have maximum latitude to exercise independent business and technical judgements in offering a range of competing alternatives.

SEC.2.(b)(9) rely on and promote effective competition; to insure the availability to the Government of alternative offers that provide a range of concept, design, performance, price, total cost, service, and delivery; and to facilitate the competitive entry of new and small sellers.

TITLE I - REGULATORY GUIDANCE

SEC.102.(a)(1)(D) The Administrator for Federal Procurement policy is authorized and directed...to establish and oversee a program to reduce agency use of detailed product specifications.

TITLE II - ACQUISITION BY COMPETITIVE SEALED BIDS

SEC.202.(c) To the maximum extent practicable and consistent with needs of the agency, functional specifications shall be used to permit a variety of distinct products or services to qualify and to encourage effective competition.

SEC.202.(d) The preparation and use of detailed product specifications in a purchase description shall be subject to prior approval by the agency head. Such approval shall include written justification, to be made a part of the official contract file, delineating the circumstances which preclude the use of functional specifications and which require the use of detailed product specifications in the purchase descriptions.

TITLE III - ACQUISITION BY COMPETITIVE NEGOTIATION

SEC.302.(b)(1)...In any case, if price is included as a primary or significant factor, the Government's evaluation shall be based where appropriate on the total cost to meet the agency need.

SEC.302.(c) To the maximum extent practicable and consistent with agency needs, solicitations shall encourage effective competition by -

- (1) Setting forth the agency need in functional terms so as to encourage the application of a variety

- of technological approaches and elicit the most promising competing alternatives,
- (2) not prescribing performance characteristics based on a single approach, and
 - (3) not prescribing technical approaches or innovations obtained from any potential competitor.

SEC.302.(3) (Same as SEC.202.(d) above)

SEC.514. All specifications shall be reviewed at least every five years, and shall be cancelled, modified, revised, or reissued as determined by such a review.

Under "definitions" the terms "total cost", as found in SEC. 302.(b)(1), and "functional specification," as found in SEC.202.(c) are defined as follows [27:7-8]:

SEC.3. For the purpose of this Act-(f) the term "total cost" means all resources consumed or to be consumed in the acquisition and use of property or services. It may include all direct, indirect, recurring, non-recurring, and other related costs incurred, or estimated to be incurred in design, development, test, evaluation, production, operation, maintenance, disposal, training, and support of an acquisition over its useful life span, wherever each factor is applicable.

(g) The term "functional specification" means a description of the intended use of a product required by the Government. A functional specification may include a statement of the qualitative nature of the product required and, when necessary, may set forth those minimum essential characteristics and standards to which such product must conform if it is to satisfy its intended use.

The bill also recognizes that competitive negotiation is just as valid an acquisition technique as competitive sealed bidding, and indicates that the multiple award schedule system is an acceptable competitive negotiation technique.

The researcher would observe that while this bill may not be passed during the 96th Congress, due to more pressing matters such as SALT II and energy, the philosophy is reflective of present day procurement practice, and

if not passed, will surely be re-introduced into the next Congress.

B. THE NATIONAL SUPPLY SYSTEM

Proponents of OFPP's Acquisition and Distribution of Commercial Products program received a boost on 9 August 1979 when the President formally approved the establishment of a National Supply System. This was immediately followed by issuance of a preliminary definition and a schedule for preliminary implementation of the system, under the Administrator for Federal Procurement Policy and the National Supply System Advisory Board.

The System is defined as "a uniform, integrated Federal-wide system for the acquisition, supply, and distribution of personal property and related services, with authority to establish, enforce, and monitor policies and procedures, world wide in scope and application [68:1]."

Among other objectives is the proviso for a greater degree of reliance on the private sector.

Twelve specific "functions" are listed, one of which is "A Standard System for the Acquisition of Material," from "Requirements Forecasting" to "Award" [68]. Listed as programs and actions currently underway in support of this function are the Federal Acquisition Regulation, unified policy guidelines for implementation of the Acquisition and Distribution of Commercial Products Program, improved Multiple Award Schedule Contract Program, Market Research

and Analysis Programs, and implementation of Major Systems Acquisition Policy (OMB Circular A-109).

There is much current debate over the potential impact of the National Supply System. In his cover memorandum to the Director of the Office of Management and Budget, the President stated "To support this action I am requesting that you advise the heads of the executive departments and agencies of the priority which I assign to this project [68]." This direction is contrary to testimony by Dale W. Church, Deputy under Secretary of Defense for Acquisition Policy, given during hearings in March on the OFPP, where he cited the establishment of the National Supply System as one of the OFPP pursuits that should be given lower priority in order that they might pursue matters closer to significant procurement policy.

C. THE FEDERAL ACQUISITION REGULATION (FAR)

Perhaps the single most important objective for the Office of Federal Procurement Policy, established at its founding in 1974, was the completion of a single, uniform, simplified, consolidated set of Federal acquisition regulations. That goal has been reaffirmed as the number one priority by recent legislation extending the life of OFPP for an additional four years. The drafting of the FAR is a joint effort involving OFPP, DOD, the General Services Administration (GSA), National Aeronautic and Space Administration (NASA), and the Department of Energy (DOE). The

original time schedule was for completion of all drafts by the end of January 1979, with publication in August 1979. Indications are that completion and publication may now be expected by summer 1980.

The stated objectives of the FAR are "to reduce proliferation of regulations, eliminate conflicts and redundancies within and between regulations, and, most importantly, to provide a uniform regulation that is simple, clear, and understandable [58]." Publication of the FAR will not obviate the requirement for individual agency regulations, which will still be required to implement FAR policies and procedures. However, the Defense Acquisition Regulation (DAR) will no longer be a complete, free standing document under which to contract within DOD.

Utilizing the DAR as the basic model (since it is more detailed and comprehensive), assignments were split about equally between DOD and GSA, with NASA drafting coverage of R&D contracting, and DOE drafting coverage on Government-owned, contractor-operated plants. The DOD assignments are being drafted by the FAR project office (FARPO), with representatives from Army, Navy, Air Force, and DLA. All drafts by all agencies are reviewed by each agency, and finally by a panel composed of two policy members, two attorneys, and two editors [58].

Completed draft sections are advertised for comment (including comment by industry and the general public) in the Federal Register. The format utilized consists of three

columns representing new proposed FAR coverage, and current coverage in both the Defense Acquisition Regulation (DAR) and the Federal Procurement Regulations (FPR).

While the drafters of the FAR have no charter to make sweeping policy changes, they have been tasked with incorporating the provisions of the proposed Federal Acquisition Reform Act not contrained by current laws, including the adoption of "commercial practices to the extent it is feasible to do so [58]."

This last task of incorporating the provisions of S.5 into the FAR became the avenue for including OFPP's policy statement and subsequent program on the Acquisition and Distribution of Commercial Products. It was in the drafting of this section of the FAR that an inevitable conflict, brewing slowly since the recommendations of the COGP, surfaced between the proponents of the ADCP philosophies and the "old guard" of the Defense Material Specifications and Standards Office (Refer to Chapter II). It was convenient that all of the top "players" resided in one office--the Office of the Deputy Under Secretary of Defense R&D (Acquisition Policy). The Director for Material Acquisition Policy (Chairman of the Defense Material Specifications and Standards Board), the FAR Project Office, and the Assistant for Commercial Acquisition all exist within that office.

Every study and/or report on Federal acquisition of commercial products, since the report of the COGP, in some way attacked either policy or procedure in regard to the use

of specifications. However, it was the attempted drafting of the FAR which eventually necessitated a meeting of the minds from the two areas; it has not been an easy resolution. To date, three separate drafts of the FAR sections relating to ADCP and specifications have circulated for comment.

It is important to note prior to analysis of the drafts, that there is in the DAR (Section 1, General Provisions, Part 12) separate detailed coverage of specifications, plans, and drawings, while there is no comparable coverage specifically relating to commercial product acquisition. Reviewing the proposed major subdivisions of the FAR, reveals a separate part (1-10), in the subchapter on "Acquisition Planning," dedicated to "Acquisition and Distribution of Commercial Products." There is no such part dedicated to the area of specifications. As in the DAR, coverage of specifications was to be included somewhere within a part of that same subchapter.

The following portion of this chapter analyzes the three FAR drafts relating to the two areas.

1. FAR Draft #1 (March 1979)

In March there was no separate draft for a section on specifications; that input had been received from DMSSO to be incorporated into the decided subchapter. However, a separate draft of Part 10, Acquisition and Distribution of Commercial Products, was submitted to the FAR Project Office. This draft was close to the "separate procurement regulation" for commercial products recommended by the Defense Science

Board in 1973 (see III E1). This particular draft is important to analyze in detail since it is the best compilation of ideas to date of the proponents of the ADCP program.

This first draft consisted of six major subparts and twenty-one sections ranging from a policy statement and user needs identification to user satisfaction and experience. The intended scope included policy and procedures in acquiring privately developed, commercially available systems, products, and related support services for Government use in accomplishment of agency missions and responsibilities. While the part was not intended to apply to those special categories of contracting addressed in Subchapter F of the FAR (see Appendix B), the principles were to be used in acquisition of commercial products when they were a part of those categories.

The policy statement was an expanded combination of the original policy statement from OFPP and some of the terminology utilized in S.5. For example, the use of commercial products "in lieu of special design products" was emphasized. Incorporated also were the enhancement of competition through the use of functional specifications, the idea of user needs satisfaction at least-total-cost to the Government, and solicitation terms and conditions designed to conform with commercial practices in order to avoid imposing additional costs and constraints in selling to the Government.

Definitions used in this draft included the same definitions used herein for "commercial" or "off-the-shelf" product, and "commercial-type" or "modified commercial" product; however, one new definition, not formerly quantified, was introduced--that of "market research and analysis," an area soon to become an implementation source of discontent in terms of organizational responsibility. The draft definition follows [62]:

Market research and analysis means the techniques used to determine the availability of commercial products and sources that will meet Government needs, the extent of commercial market competition, the range of product performance characteristics, market acceptability, current market prices, and the range of available distribution systems and support services. It also means an analysis of what is available as related to user needs for purposes of developing a sound acquisition strategy.

The discussion of user needs, requirement determination, and product suitability first introduced what was later to be formalized as the step-by-step methodology of matching user needs with existing products. The idea involved continuing dialogue between the user activity, product line manager, and the commercial market place. In the methodology, if a suitable match was not found, consideration was next given to revising the need in light of the availability of existing products. Perhaps new capabilities or lower cost substitutes would be discovered in the market research and analysis. The next step called for the possibility of modifying an off-the-shelf product to meet the need. The last, and least desirable step would be design of a new item. With recurring needs, where special design products had resulted from past

acquisition practices based on detailed design specifications, the potential for use of commercial products that provide a more economical, efficient, and effective alternative should be explored.

This same section was also very specific in stating that requirements would be depicted to reflect the function to be performed, with identification of those constraints and parameters of form and fit that would be critical in the environment of the intended use.

Finally, the subject of standardization was addressed briefly. While the need for some standardization was recognized, it was also emphasized that since requirements vary in level of quality needed, a single standard would exceed some needs and be deficient in others. The need therefore was again recognized to evaluate standardization programs based on the concept of least-total-cost, including evaluated item price, cost of the acquisition process, and cost of ownership.

From its earlier brief definition of market research and analysis, the draft proceeds into a detailed subpart including responsibilities and requirements, preparation and conduct, cost/benefit trade-off analysis, and preparation/distribution of reports on research and analysis effort. As mentioned earlier, this area was to become a major concern in regard to organizational placement and responsibility.

The draft required that all heads of Government Departments and agencies establish systems for conducting

market research and analysis, coordinating and documenting results, and maintaining records as a means of providing ongoing market intelligence for future acquisitions to meet the same or similar needs. Responsible offices were to be formally identified organizationally to coordinate all other functional areas comprising the acquisition process, to assume that significant decisions were based on best available information and advice through the research and analysis effort.

Market research and analysis was to be required for every product or product line for which product managers had been established, and for any acquisition estimated in excess of \$10,000. However, if past or current acquisitions provided general knowledge of the availability and acceptability of widely used commercial products, the research and analysis could be limited in that particular situation. It was also recognized that requirements for certain special needs of the Government, clearly not found in the commercial market, would not require market research and analysis, such as military weapons. Recurring acquisitions of non-commercial products would require research on a cyclic basis, in particular those items most likely to have commercial counterparts.

The organization conducting market research and analysis would have to be totally cognizant of the users' needs, including, for instance, health and safety factors, all planned applications, critical quality features,

environment, etc. The degree of consultation involved between all parties would depend of course on the complexity, urgency, and dollar value.

Cost/benefit trade-off analysis would be required where a commercial product could meet the need by modification either of the product or the requirement. Such things as estimates of the cost of modification and impact on supply and support costs and capabilities would have to be considered, as well as the affect on competition and socio-economic programs.

The results of research and analysis would be utilized to develop the acquisition strategy, and would also be preserved to assist in future acquisitions.

The discussion on acquisition strategy differed little from any other acquisition strategy, i.e., form of contract, contract specifications, solicitation method, evaluation criteria and selection for award, etc. The objective would be to take full advantage of what the commercial market has to offer, as disclosed by the research and analysis, by structuring the contract specification and the contracting method and techniques to be employed in a manner that encouraged the submission of a wide range of acceptable products that may vary significantly in price, quality, performance, or conditions of sale or support options; allowed the Government to select the product delivery system, and the logistics support option that will result in least total cost; and assured user need satisfaction.

One additional major advantage detailed in this draft in acquiring off-the-shelf products is their ready availability to meet market demands at diverse locations. The comparison of commercially available distribution systems and Government distribution systems in the "least-total-cost" formula is an area of growing interest, especially in DOD, through the Commercial Item Support Program (CISP). That discussion is, however, beyond the scope of this work. The concept is addressed briefly later in "Areas for Further Research."

Another area of considerable concern to users in any discussion of commercial products utilization is product performance and reliability assurance. This draft identified a variety of options for determination of those factors, for example, commercial market acceptability (See "Definitions"), pre-award testing, qualified products, first article testing, contractor warranties, independent laboratory testing, quality control, consumer organization tests and reports, and bid samples. Factors to be considered in the decision of which one or combination of the above to utilize included, the potential cost and effects of product failure, safety, defense readiness, intended use, and environment. Commercial market acceptability is again highlighted as possible relief from the more costly and time consuming of those methods. The idea was again, that products with substantial sales over extended periods to commercial customers for similar needs might demonstrate

acceptability and reliability without further action. Care must be taken, however, not to let this idea eliminate from competition newly developed, better performing, or less costly items in high technology products that have not yet had time to establish their value in the market place. System flexibility would allow such things in the solicitation as established eligibility criteria with respect to contractor qualifications or product acceptance in the marketplace. The draft allowed contracting officers to develop and apply such criteria, tailored to meet the needs of a particular acquisition, consistent with the overall objective of acquiring off-the-shelf commercial products.

As in any acquisition, the decision concerning evaluation criteria and selection for award is critical in acquiring commercial products. This draft continued in this area to emphasize the lowest evaluated price or least total cost criteria, depending on the practicability of assigning specific dollar values or applying subjective value judgement to specific characteristics and quality levels. Other possible evaluation factors considered included: anticipated life of the item, estimated maintenance and repair costs, energy consumption, commercial warranties, distribution systems, trade-ins, etc.

The final requirement levied by this draft involved the giving and receiving of user experience, wherein users would be apprised of their opportunity and responsibility for informing designated offices of such things as product

failures and deficiencies, supply or support systems shortcomings, contract failures, other inadequacies, and suggested corrective action. Offices assigned responsibility for receiving and acting on such information would inform contract administration offices, document market research and analysis files, and inform all other elements as appropriate.

In summary, if approved for the FAR, this draft would have been essentially a stand-alone acquisition guide for commercial products. Several factors combined to make such a scenario an impossibility. These factors are addressed in the following section on the second draft of FAR, Part 10.

2. FAR Draft #2 (August 1979)

In August 1979, those parties interested in the commercial products acquisition area were notified that the FAR Project Office had completed its draft of Part 10, and that a meeting would be held at OFPP to "fine-tune" the part for publication. Several days prior to the meeting, copies of the draft were circulated to provide working copies to those involved. The researcher attended the meeting as a guest of the USD(R&E). It was obvious by the reactions that the meeting would be more than a "fine-tuning." The FAR Project Office had combined the DOD draft on commercial products, and the input from DMSSO on specifications and standards into a new Part 10, entitled "Specifications and Commercial Products [29]." Up until this time, the "rice bowl" of the specifications world had

remained in tact in the move from DAR to FAR. However, now the two ends of the spectrum had been meshed, uncomfortably, in the same part.

This paper will not attempt an analysis of this draft in the detail of the analysis of draft #1. Suffice it to say that neither the drafters of the specifications input nor the commercial products input were pleased with the new draft. The representatives from DMSSO were very unhappy at the idea of being a "subset" of this FAR part. In addition, their input had been altered beyond recognition, i.e., definitions had been added, deleted, or changed (including ageless definitions such as "specification" and "standard"), emphasis had been shifted in various areas without their knowledge, and the entire part was intermingled, sometimes at random, it would seem, with excerpts from the commercial products draft [29].

The researcher observed that those who represented the commercial products draft were annoyed that their thirty-plus page dissertation had been cut, pasted and spliced, until, at a mere five pages, it was but a shadow of its former self...its "teeth" removed.

The meeting, and this second draft, are history; instead of a fine-tuning affair, the meeting quickly degenerated into a heated discussion which ranged from specifics of the draft to questions on what exactly was the charter of the FAR Project Office. Finally, after an accusation by one official (who shall remain un-named) that

the FAR Project Office "operated in a vacuum!," it was determined that representatives at the working level from each area should meet to resolve the issues.

3. FAR Draft #3 (October 1979)

At the time of this writing, the third draft is being circulated for comment, with interesting and quite dramatic changes. In its newest form, this part of the FAR is now two parts - Part 10, entitled "Specification, Standards, and Other Product Descriptions," and Part 11, (formerly reserved (see Appendix B)), entitled "Acquisition and Distribution of Commercial Products [30]."

It is the opinion of this writer that, if what had transpired prior to the issuance of this draft was considered a battle between the proponents of specifications and standards and those for the commercial products acquisition approach, the results would have to be called a draw - both appear to be winners.

Part 10 on specifications neatly preserves the duties and responsibilities of those involved, and perhaps expands them with its incorporation of the COGP recommendations and the provisions of the Federal Acquisition Reform Act. Policies included maximizing the use of functional and performance-type descriptions, and provided for a new series of formerly documented descriptions, commercial item descriptions (CID), defined as follows [30]:

...A brief, simple product description formalized under the specifications program and used in the acquisition of commercial or commercial-type products. Commercial item descriptions are issued or controlled by the General Services Administration (GSA) and listed in the General Services Administration Index of Federal Specifications and Standards (GSAIFSS).

This part also calls for the elimination of unnecessary Federal Standards in packaging, packing, and marking, and limits reference materials to those which are essential.

Policies contained in this part that are not presently covered in the DAR or FPR include (1) the establishment of a preference for the use of voluntary standards to communicate the Government's needs and for the use of commercial item descriptions to acquire commercial products when voluntary standards cannot be used, (2) the establishment of a preference for the use of functional specifications when voluntary standards and commercial item descriptions are not appropriate, (3) the elimination of brandname-or-equal descriptions which became unnecessary with the use of functional specifications and commercial item descriptions, and (4) the requirement that agencies establish a system of user feedback on centrally managed product descriptions, the products acquired under the product descriptions, and the associated logistics system. In reality, most of the new material in this part seems to have been taken from the first draft on commercial product acquisition.

Parts 10 and 11 should be totally pleasing to those who put so much effort into the first draft; for it seems

that whatever material from that draft did not make it into Part 10 on specifications, certainly was retained in Part 11 on ADCP. Following a very simple policy statement, essentially the same as the original OFPP statement, there is a natural lead-in from the Part 10 requirement for needs to be expressed in functional terms [30]:

11.003 General.

Acquisition of commercial products begins with a description of the Government's needs stated in functional terms in sufficient detail so that market research and analysis can be used to determine the availability of commercial products, distribution systems, and logistics support to fill those needs.

From that statement, Part 11 is essentially a rehash of the first draft, in much more concise terms, covering market research and analysis, product acceptability, evaluation and award, and distribution options.

One very essential addition to this part answers a question posed quite vehemently following OFPP's initial policy statement and follow-on guidance, concerning small and minority businesses who were created for, and survived solely on, Government business in commercial-type products built to specification. Part 11.005(c) is quoted as follows [30]:

When user needs previously fulfilled by acquisition of products produced under detailed specifications are to be fulfilled by acquisition of commercial or commercial-type products under this Part 11, the contracting officer must consider the impact on previous producers, particularly those that are small or disadvantaged business concerns. Provided that they meet user needs, products previously produced and acquired under detailed specifications shall continue to be considered for acquisition for a reasonable, limited period in order to give producers time to develop commercial markets. The contracting officer shall determine the period to be allowed on a case-by-case basis after consultation with the previous producers, technical personnel, and the activity's small and disadvantaged business utilization specialists.

In summary, it would appear that, regardless of the status of the remaining sections of the FAR, these parts will finally "make it to the printers." In the minds of the drafters it is a workable policy document; however, as evidenced in the next chapter's discussions on implementation to date, this battle may be over, but the war has just begun.

D. FURTHER POLICY DEVELOPMENT IN DOD

Most agencies by 1978 figured that if they in fact were to wait for the normal policy flow from FAR to DAR, to policy directives and implementing instructions, it could be years before they could react to the recommendations of the COGP as proclaimed by OFPP. So while the FAR coverage of ADCP was yet embryonic, several actions were taken within DOD to further the general ADCP policy statement of OFPP. Those actions are discussed in the following sections.

1. Defense Standardization Manual (DOD 4120.3-M) Revision

In August of 1978 the Office of the Under Secretary of Defense (Research and Engineering) issued a revised Defense Standardization Manual (DOD 4120.3-M), "Defense Standardization and Specification Manual (DOD 4120.3-M), "Defense Standardization and Specification Program Policies, Procedures and Instructions." Contained therein was a new, two-page Chapter VI, entitled "Specifications for Commercial Products," which essentially restated the OFPP policy and purpose. The chapter further provided that [21]

Military or Federal specifications for commercial products will not be prepared unless one or more of the following applies:

- a. Required to give visibility necessary to avoid duplication of product descriptions,
- b. Required to avoid proliferation of products in the DOD Supply System,
- c. Required to enable government documentation and change control for application to or as components of weapons systems,
- d. Required by law, regulations, or foreign treaties or agreements,
- e. No acceptable non-government document exists or is expected to be available when needed.

If the new FAR Parts 10 and 11 are issued as they now stand, limitation (a) above would be waived, (b) would require a least-total-cost evaluation, and (e) would disappear.

The final section, on specification content in those instances where it is determined that a Military or Federal Specification is required for commercial or commercial-type products, would be absorbed into the utilization of Commercial Item Descriptions (CID).

The manual will require extensive revision upon publication of the FAR.

2. DODD 5000.37, "Acquisition and Distribution of Commercial Products (ADCP)"

Almost two and one half years after the initial OFPP policy and memorandum on ADCP of May 1976, and almost one year following the second OFPP implementation guidance memorandum of December 1977, DOD issued its first official policy document on ADCP in the form of DOD Directive 5000.37 of September 29, 1978, entitled "Acquisition and Distribution of Commercial Products (ADCP). The policy statement within this directive is simply a rehash of the OFPP statement, except for the fact that it is separated into two sub-policy statements. The first statement addresses the "purchase" of commercial, off-the-shelf products, while the second addresses the use of commercial "distribution channels [24]." The reason for the split policy statement is made clear in the next section of the directive which assigns the responsibility for implementation of the "acquisition policy aspects of ADCP" to the Under Secretary of Defense for Research and Engineering (USDR&E), and the responsibility for implementing the "logistics policy for ADCP" to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics (ASD(MRA&L))) [24]. This seemingly natural split was to become the source of some contention during attempted implementation.

According to the Directive, ADCP policies "apply to requirements for all end items, weapons, equipment, components or material for which commercial products are used or can be used, including principal and secondary items [34]."

A review of the seven objectives reveals an almost direct transition from the three OFPP memoranda. Finally, DOD components are given rather broad guidelines involving review and revision of applicable internal directives, regulations and instructions, and determination and designation of items with potential for coverage by this policy. Components were directed to provide copies of implementing documents to USDR&E within 120 days.

3. Related DOD Policy Actions to Date

In early 1979, with as yet no implementation documents from the services in response to their directive, no FAR policy statement on the horizon, and its own draft implementing instruction under fire, USDR&E dusted off two old ADCP policy documents to essentially fan the fires of enthusiasm in the interim.

The first was an in-house, one-page memorandum, dated 11 January 1979, promoting ADCP "Management Objectives." The age of the document was obvious from its second sentence, stating that "Policy and an acquisition methodology will be developed during 1978 and promulgated in 1979 in support of this objective."

The second document of interest appeared as Item IV in Defense Acquisition Circular (DAC) #76-18, dated 12 March 1979, entitled "Acquisition and Distribution of Commercial

Products (ADCP) Policy Objectives." This also appears to have been a much earlier draft in that it also included the identical statement of optimistic goals concerning the development and promulgation of policy and acquisition methodology during 1978 and 1979.

The Defense Acquisition Circular served several purposes; first, it re-emphasized the concepts and objectives of the DOD Directive; second, it identified the fact that the CCAP and CISP programs had "surfaced several problems that are being resolved by providing guidelines to DOD components through a new DODI now being staffed"; and third, it provided a very good, concise summary of areas which would require management attention once the new FAR became a reality. It provided an overview of market research and analysis; the need for user and specification writer to determine criteria for defining "established commercial product acceptability"; and the development of functional purchase descriptions or specifications "that reflect technology of the market-place."

One very important apparent organizational decision was subtly slipped into the middle of this general paragraph in the DAC; that being the very clear statement that "the search and analysis function is an element of the acquisition process and is accomplished by the requirements and specification writing elements with assistance of purchasing elements [15]."

4. Formal Policy Implementation Within the Services

The next chapter is devoted to the current status of implementation of the DOD policy to date, including an evaluation of the DODI (draft), the Army's pamphlet on the acquisition of non-developmental items (draft), DLA's response to GAO's recommendation for full scale implementation, Navy's struggles in the offices of the Assistant Secretary of the Navy (MRA&L) and the Chief of Naval Material, and Air Force's apparent wait-and-see approach. Suffice it to say at this point that none of the agencies have as yet promulgated implementing documents as directed in DODD 5000.37.

V. IMPLEMENTATION

As stated in Chapter IV, no agency has yet promulgated formal implementation documents, including agencies in DOD directed to do so by DODD 5000.37. interviewees confirmed that the most obvious reason for this apparent disregard of stated policy is the lack of a definitive policy statement in the FAR, and therefore no amplification in agency regulations. There have been, however, several attempts by the services to implement the general policy in the interim, through directives, pamphlets, and test programs. This chapter examines current implementation status, including an evaluation of proposed DAR changes, proposed changes to the Federal Property Management Regulation (FPMR) and the Code of Federal Regulations (CFR), proposed DOD implementing instruction with service comment, individual service implementation, results of the DOD/National Bureau of Standards workshop on commercial product acquisition, and, finally, a review of several successful test acquisitions by each agency.

A. THE DEFENSE ACQUISITION REGULATION (DAR)

The incorporation of the ADCP program into the DAR was assigned case Number 78-64 for DAR Subcommittee 78-64. In July 1978, the Assistant for ADCP in the Office of the Under Secretary of Defense (R&E) submitted proposed changes

to the DAR Council, including new material not presently covered in the regulation and revisions to existing coverage which may be in conflict with ADCP policy.

Consideration of appropriate positioning of the new policy coverage within the DAR led to the recommendations that DAR 1-304, presently entitled "Procurement of Privately Developed Items," be replaced entirely by ADCP. Material presently in that section was considered to be mostly redundant, and that which was not redundant was recommended for relocation elsewhere.

Since the proposed DAR changes were drafted by the same office which prepared the FAR proposal, the material in the ADCP proposal for DAR 1.304 is essentially the same as that in the FAR, with a few exceptions for further clarification. Stated policy and objectives are essentially identical (See Chapter IV, Section C.1.), as are definitions, exceptions, statement of user needs, market survey, and review of recurring requirements.

While the basic discussion of standardization considerations is the same, the following amplification of policy in this regard is offered [64:TAB A]:

Notwithstanding the application in contracting of Military and Federal Specifications and Standards as authorized under 1-304.3 (exceptions) and as necessary to meet the special needs of certain users, the less demanding needs of other users will be satisfied through acquisition of commercial products consistent with the policies, objectives and exceptions stated in 1-304.1 and 1-304.3.

DOD components and sub-components, as appropriate, will establish internal procedures designed to recognize and take advantage of opportunities for reducing defense

costs by applying different military/commercial standards in the acquisition of similar products to meet differing conditions of use. This may involve, for example, initial or continuing requirements for DOD inventories of more costly products produced to a Military or Federal Specification, for certain uses, as well as local purchases (or orders placed against Federal Supply Schedule contracts) for commercial products for other similar but less demanding uses. Authorization for local purchase of less costly versions of similar products to meet less demanding needs should be the rule rather than the exception. Appropriate modifications to systems for item identification, ordering, and requisitioning shall be made to recognize these differences within the same commodity groups or classes, both with respect to initial requirements and recurring requirements.

The discussion on contracting procedures for commercial products centered mostly on the necessity to evaluate competitive offers of commercial or commercial-type products on the basis that would assure that advantages in regard to established sales and distribution systems and the potential for avoidance of special testing and other quality assurance/control procedures are not lost. Specifically, this section called for the establishment of monetary and other value factors, appropriately weighted, to allow for the selection of the product that represents the least total cost/best value decision. As mentioned in the DAR draft, these factors could include: anticipated life, estimated maintenance and repair costs, commercial warranties, testing needs, quality control waivers, and commercial distribution systems.

In addition, this draft would allow for a negotiation exception where the evaluation factors selected could not effectively be applied under formal advertising procedures

(either one or two step), and the benefits sought would otherwise be lost. This would necessitate a change to the negotiation exception in DAR 3-210.2. Paragraph (xiii) would be changed to read "when it is impractical to draft... adequate specifications..." vice "impossible." A new paragraph, (xix), would be added as follows [64:TAB C]:

When it is impossible to draft, for a solicitation of bids, an adequate and precise formula to be applied in the evaluation process, without the exercise of independent judgement, for selection of a product from among two or more competing products, that represents the least total cost, best value to the Government, considering price, quality, durability, life and other factors.

In the discussions accompanying the draft submission it was emphasized that the above revisions were considered highly desirable to take advantage of the greater flexibility permitted in negotiation in order to evaluate the relative merits of competing products; a procedure not always possible where the rigid requirements of formal advertising must be followed. Since negotiation exceptions are legal decisions, difficulties were anticipated in making the changes; however, it was noted that the statute (10 USC 2304 (a) 10) used the term "impractical vice "impossible."

The only other changes recommended in this draft were in "General Provisions," under Part 12, Specifications, Plans, and Drawings. One paragraph, 1-1202, was added concerning specifications for commercial products, and referring to the new proposed Section 1-304. The only other addition concerned the restricted utilization of specialized packaging

and marking requirements where commercial practices would suffice.

The issue receiving most attention in the discussion accompanying the draft was that of the OFPP use of the term "Commercial Market Acceptability." It was noted that the use of that term as a standard test that must be met for commercial product awards, presents problems, and that it was considered preferable to avoid its use in the contracting process. It was the interpretation of the drafter that the intent of the OFPP policy with respect to commercial market acceptability was to secure benefits by use of commercial products and distribution systems and not to limit purchases by a clause or solicitation provision. It was further concluded that this intent could be achieved by first utilizing the market survey to determine the acceptability of available commercial products to fill a need, and, second, developing product evaluation criteria to meet the need at least total cost. In other words, the term "Commercial Market Acceptability" would be used only in establishing policy with respect to market surveys and not separately defined for use in solicitations.

At the time of this writing, DAR Case Number 78-64, ADCP, has been closed pending a final decision on the FAR policy statement.

B. GENERAL SERVICES ADMINISTRATION - FEDERAL PROPERTY
MANAGEMENT REGULATIONS

In March 1979 the General Services Administration issued for comment a temporary Federal Property Management Regulation (FPMR), Temporary Regulation E-59, prescribing policies and procedures for the management of specifications, standards, and descriptions for commercial products. According to the draft the regulation was to be incorporated (codified) in the permanent regulations of GSA in Title 41, Code of Federal Regulations, Public Contracts and Property Management, prior to its September 1979 expiration. However, as seems to be the rule rather than the exception, unanticipated problems have caused the temporary regulation to be extended through 31 December 1979, with a further three-six months extension expected. The main problem surfaced to date is discussed herein.

It is proclaimed in the background paragraph of the draft FPMR, that one of the specific tasks required to realize OFPP's goal of increased reliance on commercial products, is "the development of a Government-wide management and control system governing the development and issuance of purchase descriptions, specifications, standards, and other documents used to describe commercial or commercial-type products for Government procurement [36:1]." This is concurrent with OFPP's call for a "simultaneous systematic improvement in existing procurement specifications and standards [49]."

The major innovation presented for the first time in this draft FPMR is the creation of a new series of descriptions called "commercial item descriptions" (CID's), intended to be an alternative to detailed Federal Specifications. CID's will be formalized under the specifications and standards program and "are intended to be used in the acquisition of commercial off-the-shelf or commercial type products [36:1]." The subject descriptions will be in functional terms to permit a variety of products to qualify for award.

According to an official in the office of the Director, Federal Procurement Regulations, the introduction, and, specifically, the definition of the term "commercial item description," is the subject of a legal "discussion" between counsels for GSA and the Office of Management and Budget. In the words of the same official, "civilian agencies have complained, for some reason, concerning the term, and the resulting politically sensitive discussions are the cause of the documents delay [54]."

C. DEPARTMENT OF DEFENSE INSTRUCTION NUMBER 5000.4x (DRAFT)

In February 1979, the Office of the Under Secretary of Defense (R&E) issued a draft of what was to be the instruction to implement the policies of DODD 5000.37. Due to the myriad of diverse comments received and the continuing inability of the FAR Project Office to complete the relevant sections of the FAR, this instruction has yet to be published. In

the interim, Defense Acquisition Circular #76-18 was issued (See Chapter IV).

The most common complaint concerning the proposed instruction was that it addressed only the acquisition portion of the policy, and that logistics instructions concerning distribution aspects of ADCP would be issued separately by the ASD (MRA&L).

Statements of policy, exceptions, and definitions followed FAR and DAR drafts closely; responsibilities were established at various levels. Secretaries of the Military Departments and the Directors of Defense Agencies were tasked with: integration of the policy into the PPBS cycle, applicable internal directives, regulations, records, and publications; incorporation organizationally of an element responsible for market research and analyses; ensuring that initiation of development efforts were deferred pending market analysis; informing industry of long range forecasted commercial acquisition requirements; identification and assignment of resources (a point of contention); and the establishment of an acquisition focal point at the component level (sort of a miniature DAE) to coordinate implementation of the instruction.

The DAR Counsel was tasked with incorporation of ADCP policies into the DAR.

The Commandant, Defense Systems Management College (DSMC), would ensure incorporation of the policies into

existing training programs and course curricula in coordination with the Federal Acquisition Institute.

This draft proposed the first formal methodology for the acquisition and distribution of commercial products, enclosed herein as Appendix C. It was accepted that applications would vary among items, especially between consumables and repairable items, and therefore application would not be mandatory. The methodology was intended to be a display of sequential actions generally experienced in the ADCP process, to be utilized to ensure that components accomplished decision points necessitated by the new policy.

In summary, this draft offered little in the way of implementation guidelines; it seemed instead to be simply an expanded policy document. Implementation problems would have been left to components, who would have been tasked to provide copies of implementing instructions to USD (R&E) within 180 days of the date of the instruction.

As mentioned earlier, service response was partially responsible for this draft never being issued. Uncertainties raised are typified by those included in the Navy response, coordinated by the Office of the Assistant Secretary of the Navy (M,RA&L). The most common complaint was that of the perceived workload impact on acquisition organizations, due to market surveys, development of commercial product descriptions, and testing requirements.

A second, potentially more serious concern raised was the reconciliation of the disparity between the lengths of time military systems and equipments are utilized and the shorter longevity for commercial items. This concern was explained in the ASN(MRA&L) memorandum as follows [4:1]:

Because of this disparity, a commercial product alternative could appear initially attractive, but not be cost-effective in the long run due to commercial phase-out of the item and attendant support. For instance, using a commercial item for a weapon system component or item of support equipment may necessitate replacement of the item early in its life cycle, as commercial availability of the item and attendant support are phased out in favor of state-of-the-art product line improvements. In some instances, such relatively short equipment life-times may prove cost effective in terms of the collective benefits of technological improvements, i.e., cost, reliability, performance. However, such action would require budgetary shifts between Operation and Maintenance (O&M) accounts and investment appropriation accounts. Without such shifts in budgetary resources, there will be a tendency to continue present practices of using detailed specifications and configuration control mechanism as a necessary requirement for in-house support of operational equipment.

The Navy memorandum contained several recommendations such as: integration of the implementation of the acquisition and distribution aspects of ADCP; emphasis on revision of existing specifications; review of potential manpower and organizational impact; establishment of an organizational capability for centralized market research and analysis; and, finally, a plea for organizational flexibility to take the most sensible course of action.

It would now appear as if this instruction will await the normal flow of the bureaucracy, i.e., FAR completion,

DAR revision, DOD Directive revision, and, finally, issuance of the DOD Instruction.

D. DEPARTMENT OF DEFENSE COMPONENT ACTIONS

The services have taken extremely divergent views and subsequent actions in light of current activity in the area of commercial product acquisition. Pending the normal flow of policy documentation mentioned earlier, interviewees indicated that efforts will remain minimal and uncoordinated.

1. Defense Logistics Agency (DLA)

"The Defense Logistics Agency buys large volumes of commercial and near-commercial products for the Military Services--approximately \$8.2 billion in fiscal year 1978 [59:1]." Although DLA has wholeheartedly supported OFPP in its reevaluation of the role of Government Specifications in acquiring commercial products, they have, to date, issued no formal documents on the subject. Instead they have chosen to follow an on-going, incremental pilot test approach, designed as a "learn-as-you-go" technique, permitting flexibility, and preventing "catastrophic failure which could result if premature, full-scale acquisition were attempted in an environment of uncertain policy [59:1]." Test items have been selected involving all six DLA buying centers, and including items currently procured to Federal or Military Specifications; preferably having in excess of \$10,000 annual usage, with reasonable potential for existing acceptable commercial items. Acquisition strategies were developed

emphasizing reduced reliance on detailed specification, and several buying techniques were utilized; i.e., multiple award schedules, brand name or equal, commercial item descriptions, non-Government standards, and tailored Government Specifications.

As mentioned in Chapter III, based on a review of ADCP progress at DPSC, GAO recommended that DLA immediately implement the policy on a full-scale basis and commit adequate staff resources to the effort. They also recommended that DOD clarify its position and "provide guidance to DLA on how to accommodate both the goals of the socio-economic programs and the ADCP policy [34:33]."

DLA officials replied informally that field activities, such as DPSC, were hampered by lack of operating instructions on policy implementation. Informal response from DOD indicated that field activities were encouraged to experiment and develop imaginative and innovative techniques. They further indicated that instructions were forth coming.

In a 6 June 1979 memorandum for USD(R&E) concerning the GAO report, the Deputy Director, DLA, stated that the report had "taken the Clothing and Textile pilot text effort out of context and ignored some of the overall objectives and accomplishments of the DLA ADCP program [17:1]." He stated further that what GAO described as a "go-slow" technique, DLA called a "sensible, incremental approach which balances trying new things with upholding current responsibilities." It was emphasized that responsibilities

such as supply items of requisite quality, maximizing competition, and fulfilling socioeconomic program objectives could not be put aside for the sake of any one goal, and that crash implementation, with inadequate consideration of real-world relevant factors, would jeopardize the long-run success of the ADCP program. Following a brief summary of the lack of published operating procedures, the memorandum ended with the following statement, which currently summarizes DLA sentiment in this area [17:3]:

As a whole, the report fails to recognize the importance of the Military Services in implementing ADCP. Their devotion of resources to performing market research and revising specifications is required to continue ADCP progress. We noted that although the GAO report summarized DOD views, DLA views, and OFPP views, it omitted the views of the Military Services. Actually, at the 21 March 1979 meeting with GAO representatives, the Military Services specifically upheld the current incremental ADCP approach and unanimously agreed that the pace of implementation was about right. We believe our record of ADCP participation confirms our support for the basic program objectives. We feel over the long run that, our positive, "learn-as-we-go" approach will prove most successful in accomplishing these objectives.

2. Air Force Implementation Status

Informal discussion on 20 September, 1979, with the Office of the Deputy Chief of Staff for Research and Development and Acquisition, Directorate of Contracting and Acquisition Policy, indicated that the Air Force has taken no formal implementing actions pending FAR, DAR, and DODI policy and procedures publication. They have simply made all levels aware of the DOD Directive and the Defense Acquisition Circular on the subject, for application where obviously beneficial. Further discussion indicated that Air Force personnel considered good, user-generated market

analysis the key to the program, with its inherent problem to the contracting officer in determining the adequacy of the research effort. The final statement from that office was that any further action on their part, such as an instruction, would be pre-mature. The Air Force did, however, participate in CCAP/ADCP test programs, one of which is discussed later in this chapter.

3. Army Implementation Status

After OFPP's initial policy statement and amplifying guidelines in 1977, the U.S. Army Procurement Research Office, U.S. Army Logistics Management Center, began a study to identify current methods of acquisition of commercial products; develop improved procedures for the acquisition of commercial products to be documented as a draft pamphlet for field use; and to recommend regulation changes necessary for the adoption of the draft pamphlet. The Army includes commercial products under the title, Nondevelopmental Items (NDI's).

The proposed, pamphlet, Acquisition Strategies for Non-developmental Items (NDI's), has been revised several times, is currently in draft format, and has been recommended for issuance by DARCOM or the Department of the Army.

The material needs of the Army are satisfied by either (1) product improvement of current standard equipment, (2) buying nondevelopmental equipment, (3) modification of commercially available items, or (4) initiation of a new material development program. Method (1) is preferred,

while (4) is usually considered to be more costly and less timely [65:1]. The Army considers both methods (2) and (3) to be nondevelopmental acquisition, and those areas, therefore, are addressed in the pamphlet. The overall consideration is the proper balance between the many potential advantages of these methods (especially cost and schedule), and the lack of control over design configuration. It is therefore the intent of the pamphlet to provide a methodology wherein all major issues are resolved, and risks are identified and accepted by all parties prior to contract award. Emphasis throughout is on an expedited process which relies heavily on market surveys and suitability evaluations. The objectives are best summarized in the following statement of the NDI management concept [65:1-4]:

NDI seeks to take advantage of reduced costs and compressed schedules through the acquisition of already designed material in use by the commercial, military, or Government users. Recognizing the Army's lack of control over the design of the item, a procedure is followed which minimizes risks by providing early decision points on all important questions regarding military suitability and functional (fit, form and performance) criteria before a production contract is signed. Reliance is placed on the acceptability of the candidate item in the marketplace reinforced through military suitability evaluation, as required, to answer user type questions. The risk inherent in NDI acquisition must be understood and accepted by the combat developer and the material manager before the decision is made to satisfy the requirement with an NDI. As a result of the shorter acquisition cycle and earlier availability for deployment, it is necessary and appropriate to rely on commercial supply and distribution systems for technical, training, and logistic support during an initial fielding phase.

The remainder of the pamphlet is an indepth implementation of the stated objective, from the definition

and validation phase; through production, deployment, and follow-on evaluation; with particular attention devoted to the procurement plan, integrated logistics support, and test and evaluation.

There were several amplifications or additions to policies and procedures discussed previously. For instance, what has previously been considered the area of market research was divided into two separate aspects, the market survey (user application and acceptance, logistics factors, operator skills, cost, environmental factors, etc.) and suitability evaluation (operational performance, supportability, military compatibility, training requirements, cost of ownership, human factors, i.e., noise safety, etc.). From here, the market survey is further divided into two components: (1) the technical survey and research phase, and (2) a field survey phase. The objective of the technical survey and research is to identify potential product candidates within a required performance envelope; while the objective of the field survey (on-site) is to evaluate product performance characteristics and military potential.

Perhaps the most important aspect of this pamphlet is its attempt at completeness, i.e., it is intended to be a stand alone publication in its application, including all logistics considerations, without waiting for guidance from the office of the Assistant Secretary of Defense (M,RA&L). While there will undoubtedly be some changes required when policy on the Commercial Item Support Program (CISP) is

published, it is noteworthy that this pamphlet has attempted to present a complete set of acquisition guidelines. Perhaps it is the lack of published policy in either area, acquisition or distribution, that has caused this pamphlet to remain in its draft format for several years.

As with the Air Force, the Army also participated in CCAP, and their success is discussed later in this chapter.

4. Navy Implementation Status

Immediately following the issuance of DODD Directive 5000.37, the Navy seemed bound and determined to meet the implementation deadline contained therein. The office of the Assistant Secretary of the Navy (MRA&L) routed for comment a draft SECNAVINST 5000.xx, the stated purpose of which was "to promulgate and implement enclosure (1), which establishes policies and responsibilities for the Acquisition and Distribution of Commercial Products [56:1]." Unfortunately, enclosure (1) was just a copy of the DODD, and no further guidance was included. It was the stated responsibility of the Chief of Naval Material to implement the directive, a statement which made little sense in view of the fact that the draft SECNAVINST was proclaimed to be the implementing document. Fortunately, the draft received enough negative comment on its shallowness, that it never made it to press.

Several interesting ideas can be gleaned from a perusal of the latest draft. For instance, the researcher

would observe that it will be the intent of the Navy, at least at the policy level, to apply the commercial product doctrine to all acquisition considerations. This premise is supported in the statement of applicability and scope, wherein it is proclaimed that the instruction will apply to all elements involved in the establishment/determination of material performance requirements, specifications, and/or logistics support concepts; the actual acquisition and distribution of material (including weapon systems, equipment components, and material items); and the approval of weapons systems and equipment for service use. This draft instruction, like the Army's pamphlet, also touched on supported areas under the CISP; for example, the stated preference for utilization of "commercial maintenance support in lieu of the first, second, or third levels of Navy maintenance where this will result in support cost savings while still maintaining required levels of availability and operational readiness [9:3]."

Specific responsibilities were delegated to the Chief of Naval Operations (requirements formulation, operational test and evaluation, and approval for service use), and to the Chief of Naval Material. Among the many assignments to NAVMAT were a few which are as yet unclarified in overall policy; for example, the establishment of instructions and procedures for identifying commercial products with commercial market acceptability with the potential to satisfy Navy requirements; estimating the relative life

cycle costs of the acquisition of commercial products and the use of "commercial contracting practices," distribution channels and maintenance support and the corresponding costs of alternatives; and, finally, "to foster competitive industrial sources for the acquisition, distribution and support of Naval Systems, equipment and material [9:4]."

In summary, despite various levels of attention in each service, none has yet to publish a single document either promoting the general policy statement of the DOD Directive, or providing implementation guidelines to service activities. It is highly unlikely that any such documentation is forthcoming from the service level, until they receive some idea of the intended FAR and DAR treatment of the subject area.

E. PROCEEDINGS OF COMMERCIAL COMMODITY ACQUISITION WORKSHOP, "COMMERCIAL BY DESIGN"

In January of 1978, the Department of Defense co-sponsored with the National Bureau of Standards the subject workshop with the stated objectives [22:v]:

To establish a dialog between the Department of Defense and private industry on the ways and means to acquire, use and support commercial off-the-shelf products to meet DOD requirements.

To identify commercial commodity acquisition problem areas, examine and develop procedural guidelines for 'going commercial', and provide input material for a DOD 'How To' handbook.

To carry the workshop theme 'Commercial By Design' back home.

These lofty goals were supported by a list of attendees reading like a "Who's Who" in the acquisition arena...Mr.

Richard Penn, Acting Director, Experimental Technology Incentives Group, Bureau of Standards; Mr. Dale Church, Deputy Undersecretary of Defense (Acquisition Policy); the Honorable Lester Fetting, Administrator of OFPP; the Honorable William Perry, Undersecretary of Defense (Research and Engineering); Mr. Hugh Witt, United Technologies; Mr. Dave Packard, Chairman of the Board, Hewlett-Packard Company; and many others. Workshop topics included user needs, market research, acquisition strategy, logistics support, and product evaluation.

A large portion of the discussions, conclusions, and recommendations emerging from this workshop has already found its way into many of the draft documents previously discussed, in particular the FAR and DAR. However, some of the comments and suggestions which have not surfaced elsewhere are interesting to note. For instance, early on in the workshop it was noted by an industry representative that the General Services Administration was not a participant. As unusual as that might seem, no explanation is offered for GSA's absence.

One interesting statement generated by the workshop on user needs, summarized the thoughts of almost all proponents of the commercial product movement in regard to the ability of the Government to complicate a seemingly simple attitude change [22:25]:

New simplified procedures should be written for the procurement of commercial units. It still takes four to five months to procure a commercial system. Since the item has been designated and built and its capabilities are known, logic dictates that there must be a faster way to procure it.

An interesting observation from the panel on market research was that the Government's primary problem in this area is that no one ever gets to be an "expert" in any particular thing. However, the comment went without any further amplification, and therefore what began as a strong indictment, ended as a weak, unsupported grumble. Some of the impediments to implementing market research cited by this panel included, negative attitudes of Government and industry. Earlier discussion has shown that regulations, rules, and laws may be changed, organizational adjustments may be forthcoming, and communications barriers will be attacked by the other two changes (regulations and organizations). However, the researcher would observe that the impediment which to date has not been successfully thwarted is the negative attitude of those in the area toward changing policy.

The panel on acquisition strategy suggested that "DOD should publish policy, but procedures for implementing the policy should be left to the Services and Defense Agencies [22:40]." Several other recommendations of this panel are worthy of note, excerpted as follows [22:41-43]:

When specification writers are aware of commercial off-the-shelf equipment, caution must be exercised so that the specification does not describe a hybrid item having the best features from each available unit instead of the actual Government requirement.

When Government use of an item is similar to commercial application, no special inspection requirements should be imposed.

Government contracting officers should be able to make subjective judgements when awarding contracts for commercial items.

Authority should be sought for a 'test program' which would exempt the procurement of commercial items from those contractual clauses which impose requirements or restrictions not found in the commercial sector.

Within the next panel discussion on logistics may be found an indepth analysis of the Commercial Item Support Program (CISP) concept. Again, while it is outside of the perview of this paper, the logistics support area is fruitful for research, and, as yet, is far behind in proposals for implementation.

The final panel on product evaluation, strongly continues the "reliance on the private sector" theme, stressing, among other things, utilization of manufacturers product descriptions and proven QA procedures.

It should be repeated that those areas discussed above are simply highlights of items either not mentioned in earlier discussions, or treated differently. Again, a large portion of the document has been absorbed into proposed rules and regulations. However, it is interesting to note, in light of the importance of the meeting and those in attendance, that no formal summary of the recommendations was ever taken for action by anyone, and that no follow-on report has ever been published. The report itself still stands as the most indepth "meeting of the minds" by the acknowledged leaders in the field to date.

F. SUCCESSFUL UTILIZATION OF COMMERCIAL PRODUCT SUBSTITUTIONS

Before looking at several examples of successful buys under the revised policy statement by OFPP, it would be useful at this point to re-emphasize the relatively simple overall objective of the policy which seems to get buried in a landslide of documentation. One should keep in mind that the original policy simply called for utilization of commercial products and commercial distribution systems where such utilization would be advantageous to the Government. It is the how's, where's, why's, and who's of "advantageous" that creates the unending flow of verbiage on the subject. In looking at the following examples of large dollar savings, lead time reductions, and customer satisfaction achieved through common sense approaches to the acquisition process, the researcher wonders at the necessity for the three year delay in publishing at least some sort of logical procedure to ensure that such alternatives are considered.

1. Defense Logistics Agency ADCP Results

Any review of ADCP successes or failures should begin with the DLA program for several reasons. First of all, the commodities for which they are responsible for centralized procurement more easily lend themselves to an "across the board" application of the new procedures; and second, in view of the fact that DLA's large volume procurements of commercial and near-commercial products were of the type directly addressed by the Commission on Government

Procurement, the earliest and most complete test programs have originated therein. For these reasons, no one, large dollar value procurement serves as a good example of the results of ADCP procedures utilization by DLA. Instead, representative buys covering some seventy-two items, utilized by all services, and procured through all DLA buying activities will be examined. Commodities include automotive gasoline, bath towels, screws, gloves, electrical conduit, fuses, librium, x-ray film, solder, soy sauce, undershirts, and many more. In a paper prepared for presentation to the 1979 DOD/FAI Acquisition Research Symposium, DLA officials evaluated results in terms of price, quality, small business impact, and bidder response [59:3]. Highlights of this presentation are contained herein.

It is the conclusion of DLA officials that "no definitive purchase price savings can be predicted solely as a result of changing the method of technical description [59:9]." However, it was discovered that evaluating price/quality trade-offs, as specified in the ADCP methodology, often results in substantive price changes.

As might be expected, DLA found that utilization of brief commercial descriptions does add some degree of risk concerning quality of delivered items. However, the ADCP methodology demands the assumption of this risk, and provides a means to lessen the risk through strong market research procedures.

The one potential adverse impact on small business mentioned in the DLA report, seems to have been overcome by prudent adaptation of the ADCP methodology. The concern was for small business, surviving solely on supplying items to Government Specification, who would not be able to meet any sort of commercial market acceptability requirement. This concern however was obviated in proposed policy statements, wherein allowances were made to permit consideration of such products as commercially acceptable. A complete study of the potential impact of the ADCP policy on small business may be found in the Naval Postgraduate School Thesis, The Potential Impact of the Government's "Buy Commercial" Policy on Small Business [70].

It was noted by DLA that increased bidder response was definitely obtained in the ADCP test procurements. These results were tempered a bit in the report, however, noting that increased publicity and priority attention due to the test nature of the buys may have increased response. However, it should be noted that ADCP methodology again calls for increased notice to the private sector concerning anticipated buys. In that light, it would appear that increased participation might well be expected.

In summary, the DLA report is extremely optimistic concerning application of ADCP procedures to their buying organizations. While noting that final judgement would be premature due to insufficient data collection thus far, the report stated that "results suggest that a selective

approach of improving poorly written specifications based upon comprehensive market research would achieve the goals of the 'buy commercial' program [59:9]."

2. Air Force Acquisition of Diesel Powered Ground Generators--A CCAP Case Study

In late 1971, the Military Airlift Command suggested that there might be substantial cost savings available through substitution of off-the-shelf diesel powered ground generator sets, utilized commercially by airlines, for turbine powered ground generator sets then used in support of the C-5 and C-141 aircraft. As well as lower initial cost, greater ease of maintenance and lower fuel consumption was anticipated.

Since the Air Force was still in the process of introducing a replacement model diesel generator, built to Military Specifications and Standards, it was considered infeasible to study the MAC proposal at that time. However, by the mid-seventies, fuel availability problems caused the resubmitted proposal to be accepted for test.

The first impediment to the proposal came in the form of the organizational approval structure; the overall Air Force monitor supported the tests, but approval was needed from the Air Force generator managers and the Army (as designated DOD Program Manager for Mobile Electric Power). By September 1975, agreement was reached to conduct service tests on available commercial off-the-shelf

diesel powered generators, with three military standard sets in the DOD inventory. Two commercial sets were bailed from known suppliers to commercial airlines.

At this point, without realizing it at the time, the requirements people allowed the as yet unwritten ADCP methodology to take affect. There were two known disadvantages to the diesel generators being considered, (1) they were not self-propelled, and (2) they did not have the "required" bleed air capability of the turbine generators. In this situation, ADCP methodology calls for a cost benefit trade-off analysis in regard to modifying the requirement, prior to considering a modification of the commercial item. In fact, that is exactly what was done. MAC agreed that the self-propulsion problem could be easily overcome since requirements to move the generators were minimal. Second, since these generators would only replace about two-thirds of the turbine type, the bleed air capability of the remaining third would suffice. Hence, another road block was overcome.

Test results clearly demonstrated that commercial item substitution was the most cost effective means of meeting MAC requirements. Whereas, the original estimate of fuel savings was \$8,000 per day, tests indicate that this could be as high as \$13,700 per day. The following chart summarizes the results [1:6]:

<u>Cost Item</u>	<u>Current Turbine</u>	<u>Commercial A</u>	<u>Commercial B</u>
Acquisition (Unit)	\$ 56,000	\$14,085	\$18,500
Parts Cost Per Unit Yr.	33,537	2,500	1,100
Fuel Cost Per Unit Yr.	<u>38,785</u>	<u>1,982</u>	<u>2,233</u>
	\$118,322	\$18,487	\$21,833
Est. daily fuel savings=	$\left[\frac{(\$38,785 - 2,000) \text{ per unit per yr.} \times 316}{365 \text{ days/yr.}} \right]$		
	= \$13,700 per day		

The acquisition strategy following the tests was to use performance specifications for off-the-shelf diesel powered ground generator sets, limiting bidders to manufacturers who have supplied the commercial market, i.e., commercial market acceptability. Further savings would be recognized since contractors would test only as they would for commercial sales, and standard commercial warranties would be required.

Further impediments, currently foreseen in general ADCP methodology, were encountered in requesting a waiver from the DOD Project Manager in order to procure a non-standard item. The waiver was initially denied as being directly opposed to the policies and principles associated with DOD standardization programs. Proponents argued that being locked into standard models effectively precluded taking advantage of state-of-the-art improvements. Next, the waiver was granted with the provision that the solicitation contain a statement that DOD possibly intended to standardize the model selected. Eventually that caveat

was also dropped, due to the argument that standardization could not be achieved since testing was for limited application; i.e., environmental test, such as extreme weather conditions, were not included.

At the time the tests were completed, the generator procurement was incorporated into the DOD CCAP. Original milestones called for solicitation in December 1977, with award in April 1978, and first delivery in October 1978. Actually, due to protests (concerning the commercial market acceptability clause), the first generator sets were delivered during the summer of 1979.

While the final savings determination must of course await field utilization, this procurement was noteworthy for several reasons. First, the methodology utilized followed precisely that later formalized for ADCP. Second, it surfaced the various impediments throughout, both regulatory and organizational, which must be contended with in the proposed policy implementation. Finally, the case supports the premise that there are those in the acquisition arena who, through a flexible application of logic, have been able to achieve the results anticipated through eventual implementation of the formal policy.

3. Army CCAP Results--A Navigational Receiver

Whereas the DLA examples represent substitution of unchanged commercial items for unchanged requirements, and the Air Force case study shows unchanged commercial items substitution for modified requirements, the following Army

example reflects the substitution of slightly modified commercial items for an unchanged requirement.

The Army initiated a two-step procurement for approximately 5000 navigational receivers to be installed in all Army helicopters. Six potential suppliers responded, each proposing an off-the-shelf, commercially designed, general aviation receiver. Two were eliminated by test and evaluation; the award was then given to the low bidder. A Reliability Improvement Warranty (RIW) was incorporated into the contract, and the contractor assumed total logistics support.

Eventually the equipment was delivered on time, performance requirements were met, and "the Army estimates a per-unit cost savings of \$4,700 when compared to a militarized version of the same receiver, coupled with the elimination of a 3 to 5 year R&D effort and attendant non-recurring costs [41:39]."

It is important to note that the Army was not detoured in this procurement due to slight modifications required for electromagnetic interference and shock. Cost benefit analysis, based on contractor estimates for the modifications still pointed to the modified commercial items. Second, with renegotiation of the RIW required at the four year point, the Army has the option to develop organic logistics support or to continue with contractor support. This procurement thus represents the best of both programs,

ADCP and CISP, and supports the argument that they be implemented in tandem.

4. The Navy and ADCP--Successes, Real and Potential

In February 1979 representatives from the Navy Material Command (MAT O8C) prepared a briefing for the Deputy Under Secretary of Defense (Acquisition Policy) concerning the Navy's experience and observations with the ADCP Program. The presentation evaluated seven acquisitions either having utilized ADCP procedures or anticipating utilization thereof. Three of the cases will be mentioned briefly, and one will be looked at in detail, since it involved potential savings, since foregone in view of organizational and procedural impediments incurred.

The first two examples are reviewed because they illustrate the crossover from the ADCP emphasis on commercial products, into utilization of mission needs for solicitation of major system under OMB Circular A-109. The two specific examples used in the Navy presentation also meet the definition of major systems provided in A-109. The systems were the Ocean Surveillance Ship (T-AGOS), and two land based training and support aircraft, the C-9B (SKYTRAIN II) and the T-44A.

The procurement of the T-AGOS was not unique nor was it the result of pressures from the ADCP Program. On the contrary, several similar "unique" support ship acquisitions were successfully concluded in the 1970's. The concept utilized is fairly simple. Realizing the growing

shortage of R&D funds for major systems, and the increasing importance of using such funds for combat vessels, officials in Auxilliary Ship Acquisition at the Naval Sea Systems Command, utilized a market research technique, aimed at identifying a basic hull design which might then be outfitted for various unique needs. The result was the procurement in 1971 of two commercial research vessels, and in 1976 the discovery of a standard off-shore supply boat hull, available through approximately 47 sources. In the proposed T-AGOS acquisition, the off-shore supply boat concept was compared during the market research phase with a tuna-seiner, and a trawler. In view mainly of the fact that numerous sources were available, the supply boat concept was chosen. Since the boat is designed to American Bureau of Shipping Standards, open competition was obtained through two-step, formal advertising. The important point about the solicitation is that the entire circular of requirements (COR), with modifications, contained only about 200 pages, including appendices. In short, acquisition lead time and costs were greatly reduced due to continuing market research by the responsible organization.

The next pair of examples offered involve the procurement by the Naval Air Systems Command of the C-9B for cargo and personnel airlift and the T-44A training aircraft. It should be noted that although both aircraft are off-the-shelf commercial versions, the driving factor again was not the ADCP philosophy, but the lack of R&D funds for

application in this area. In fact, an official in the offices responsible for the acquisition of training and support aircraft was quoted as saying that "anytime we want a commercial aircraft, its a fight - the system is geared to design from the bottom up [14]."

Regardless of the reasons for the particular acquisitions, they still again represent the potential for the ADCP methodology in systems acquisition. Simply stated, the C-9B is an off-the-shelf McDonnell Douglas DC-9, purchased using a simplified specification for "a new aircraft, medium size, multi-engine turbofan, FAA certified under FAR-25, with current air worthiness certificates from FAA air-worthiness inspections [14]." The solicitation was issued in February 1972, followed by deliveries beginning in October 1973, under firm-fixed price contracts. Here again, as with the T-AGOS, the entire Request for Proposals (RFP) was less than two inches thick.

The second NAVAIR example, the T-44B, was initially purchased in 1976 as an off-the-shelf, multi engine Beechcraft, Beech King Air 90, trainer.

Both aircraft utilized open competition and testing only to ensure that manufacturing performance claims were valid. Again, the benefits included minimal acquisition lead-time, significant avoidance of R&D and testing costs, and, in the case of the T-44A, which utilizes contractor life cycle support, an estimated reduction in operating and support costs of approximately 50% [8].

Moving from system to subsystem and component acquisition, the NAVMAT presentation cited, for example, the substitution of commercial inertial navigation equipment in Navy aircraft. Specifically, equipment purchased utilizing Aeronautic Research Incorporated (ARINC) standards to replace militarized navigation equipment in the P-3B, P-3C, C-9B, and C-130 aircraft. The acquisition strategy involved competitive procurements using the commercial (ARINC) description, with minimum flying hour requirement specified, and contractor support. In addition, out-year options were included in the contract. Estimated benefits, according to the brief, include an 84% reduction in acquisition costs (\$230K/UNIT), \$20K per year reduction in operation and support cost, and increased reliability [8].

The final example deserves a closer look for several reasons, not the least of which is the fact that it was highly touted in the NAVMAT brief, and was subsequently abandoned after a long, hard, losing fight with the system. The program involved identification and procurement of OMEGA radio navigation equipment for ships to replace the AN/SRN-12 OMEGA sets currently in use, which are bought to a 15 year old Military Specification, and have long since been overtaken by market technology. Significant user dissatisfaction exists with the SRN-12, due to its obsolescence and time consuming use. The program drew much attention due to the pending requirement for 23 OMEGA sets for the new FFG's. The potential benefits cited by NAVMAT were a state-of-the-art

system with a 60% plus reduction in acquisition cost [8]. The potential problems cited in the brief were the eventual death of the program, i.e., shock requirements and "Approval for Service Use (ASU)," a requirement for equipment destined for use on a combatant. What follows is a brief review of the birth and death of the replacement program.

The Standard Navy Omega Navigation Receiver, AN/SRN-12, was introduced into the fleet in the early 1960's, at an initial purchase price of \$4,000 per unit, and is currently being procured for approximately \$30,000 per unit on a sole source basis, built to a Military Specification. The unit is a first generation OMEGA receiver; is time consuming to operate; and requires constant attention by a skilled operator to acquire and maintain accurate position. In addition, since it does not read latitude and longitude, special charts and tables are required which must be updated periodically. The unit is too large and heavy for utilization on small ships, and it is nowhere near state-of-the-art [12:2].

The Navy planned to retain OMEGA receivers aboard ships and submarines as a back up capability to a newer, more sophisticated system (NAVSTAR/GPS), itself the scheduled replacement for Transit, a satellite navigation system. Some low value or non combat ships would not be equipped with the newer, high cost receivers, and would continue to rely on the current OMEGA system for years. The SRN-12 receivers currently in use are not projected to be cost

effective to maintain throughout the 1980's, when the new systems are scheduled to become operational [36].

The objectives of the replacement program were to reduce operator work load and skill level, increase system effectiveness, reduce acquisition and support costs, and reduce system size and weight for possible utilization on small craft.

There appeared to be three possible alternatives: (1) attempt to field change the existing units, (2) develop a new Military Specification, or (3) approve a commercial receiver. The field change alternative was discarded by the procuring activity, Naval Electronic Systems Command, since it did not meet all objectives, i.e., the cost would equal or exceed the purchase cost of commercial receivers; the field change would be a major modification requiring re-test and approval for service use, as well as logistics support changes; and acquisition would continue to be sole source to a Military Specification.

The second alternative was not cost effective due to the estimated research, development, test and evaluation cost of approximately \$800,000, as well as the unacceptable lead time required.

As a result, NAVELEX forwarded a draft Navy Decision Coordinating Paper (NDCP) in April 1979 via NAVMAT to the Chief of Naval Personnel recommending replacement of existing AN/SRN-12 units with modified commercial OMEGA receivers.

The recommendation was based upon an extensive market survey, on-board evaluation, and extensive bench testing of available commercial receivers, conducted by NAVELEX and NAVSEASYSKOM, the results of which met all objectives, i.e., low cost, acceptable performance, and near term availability [46].

A reduced testing program was recommended if the selected receiver exhibited wide acceptance by users (commercial market acceptability). It was also noted that about a half dozen U.S. manufacturers produced promising OMEGA receivers commercially, which, when modified, could be certified Approved for Service Use (ASU).

The Chief of Naval Material forwarded the NDCP to the Chief of Naval Operations (CNO) (OP-942) for consideration, noting, however, that "modifying the FFG-7 program for a replacement OMEGA receiver cannot be justified unless CNO makes a strong commitment to change to the new standard on all SRN-12 equipped ships [66]."

In a separate memorandum to OP-094 (Command and Control), OP-03, Deputy Chief of Naval Operations (Surface Warfare), concurred that age, poor accuracy, and demonstrated poor reliability, would seem to dictate replacement of the AN/SRN-12. However, the memorandum further stated that in a period of severe fiscal constraint, there appeared to be little justification for a backup to the new satellite system. It was noted that a sextant and/or dead reckoning provide similar accuracy to the SRN-12. To that point the memorandum seemed consistent; however, it went on to say that ships

whose present Transit system was phased out "would be logical candidates for NAVSTAR/GPS receivers, even though that system will provide for greater accuracy than required for known surface warfare missions [36]." Considering the high cost of the NAVSTAR/GPS, that statement seems inconsistent with any known acquisition policy, most of which opt for meeting minimum requirements at minimum cost.

The final paragraph of the memorandum supported utilization of more capable and less expensive commercial receivers on ships not equipped with TRANSIT.

The death blow for the substitution program came by letter from the Commander Operational Test and Evaluation Force to the Chief of Naval Operations in May 1979 stating that the test program (ACAT III) be established in the NDCP, meaning that much heavier test requirements than recommended would be required, with the inherent time delay incurred in such testing [13]. Interviewees indicated that this requirement was far more stringent than required, and could well be looked upon as "rice bowl" protection. This final delay negated any possibility of using commercial receivers in the FFG-7 program, which now will be supported by the current acquisition of 23 of the AN/SRN-12 receivers, built to a 15 year old specification, at a cost of approximately \$30,000 each. Since that is currently the only ship building project of any significant number of ships, the potential for commercial substitution in the

future is remote, i.e., the time for action was overtaken by regulatory and organizational delays.

G. IMPLEMENTATION ANALYSIS SUMMARY

While it is obvious that implementation documentation must wait at all levels for published policy, beginning with the FAR, it is equally obvious that various facets of the ADCP methodology are occurring at various places, on a myriad of different acquisitions, for various reasons. Everything from DLA commodity volume purchases, to Navy Systems Commands' major systems and subsystems acquisitions are utilizing off-the-shelf commercial products both by logic and as necessitated by outside forces, such as funding constraints. A quick review of the sample acquisitions discussed herein supports the premise that, whether under the auspices of the formal ADCP Program, or due to the intelligence of certain acquisition personnel (or both), on numerous occasions, money and time are able to be saved, and are being saved, in significant amounts through the substitution or first time utilization of commercial products.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

1. The Commission on Government Procurement was correct in its findings that there is a need to change the way in which the Government buys commercial products.

Evidence supports the contention that there is a general creep in the proliferation of Government specifications which fragment features of acceptable commercial items, thereby creating Government unique, commercial-type items. The result is actually restricted competition since producers of off-the-shelf products cannot or will not bid on these items. The concurrent failure to adequately update existing specifications results in "customized obsolescence." As evidenced by the example acquisitions in Chapter V, there is not only a need to change the methods, but also to expand the application of commercial products wherever possible.

2. The Office of Federal Procurement Policy (OFPP) policy statement is simple in theory but is complicated by the bureaucracy to which it is addressed.

The overall intent of the policy statement and guidance memoranda from OFPP is simple, i.e., utilize existing commercial products and distribution systems whenever they will adequately meet Government requirements. However, as with any proposed change, it is being resisted

by those who picture it as an attack on their own empires or "rice bowls". The simple intent of the policy, however, is undisputable; when a requirement surfaces, search for an existing item to satisfy it; if unsuccessful, investigate the feasibility of modifying the requirement; next, evaluate the potential for existing product modification; and finally, the last alternative is to design from the "bottom up."

3. Other than the policy and guidance memoranda from OFPP, no policy exists within the Government as a whole, or within the DOD or other agencies, specifically addressing the acquisition of commercial products.

Many efforts are underway to get such a policy documented. The key to successful policy establishment is the completion and publication of the FAR. Until such time, the DAR draft, the DOD Directive, manual changes, draft pamphlets and instructions, are "implementors in search of a policy," and therefore carry no "teeth."

4. The Federal Acquisition Reform Act, Senate Bill S.5 (or it's follow-on) will provide impetus for implementation of the ADCP methodology.

The proposed Senate Bill strongly supports the foundations upon which the ADCP policy has been developed. Its emphasis on reliance on the private sector, reduction of specifications, use of functional purchase descriptions, and recognition of negotiation as an equally acceptable method of contracting, all tend to bolster the basic precepts of ADCP.

5. Acquisition and distribution aspects of the policy should be studied and implemented as one policy.

Throughout the literature it is evident that supporters and detractors agree on this point. The main reason for such consideration is the necessity to examine total cost or life cycle cost in most acquisition decisions. The split responsibilities at the OSD level make implementation attempts fragmented at best.

6. The Department of Defense has "toyed" with the policy for the sake of appearance.

While it is true that policy implementation is difficult without adequate guidance from the policy originators, it is also true that sound logic alone would begin to show some rewards from the ADCP theory. The sudden initiative shown within DOD in its start of the CCAP a mere five months prior to OFPP's initial policy statement is evidence of politics. Most of the meaningful dollar value programs paraded as CCAP (later ADCP) tests were either heading in that direction already, or else never made it for organizational or regulatory reasons. Millions of dollars have been poured into publications, special committees, and consulting reports, with nothing resulting from any of the findings. The biggest example of waste in this area was the DOD/Bureau of Standards Workshop-a waste since its findings also have all but fallen on deaf ears. The ADCP idea is treated with the typical "ignore it and it will go away"

attitude, with an occasional rhetorical statement of support when pressured.

7. There is a need for a flexible, subjective implementation guide.

The mechanics necessary for implementation either already exist in the functional areas, or will exist upon passage of the Federal Acquisition Reform Act and publication of the FAR. Therefore any implementation document should be broad policy amplification, and emphasize a logical and flexible example methodology. As mentioned previously, such methodology is already being applied by logical, constrained, acquisition personnel at various locations, for a myriad of requirements. It only remains for emphasis to be placed on such areas as needs determination (versus wants), market knowledge, and cost/benefit trade offs. Strengthening of increased, constant utilization of market surveys and analysis, tailored to the activity, shows great potential for payoff in all areas of acquisition, except for possibly major combat systems. Terms such as "commercial market acceptability" must be generally defined to allow flexibility in application, and subjective evaluation by Contracting Officer. The proper use of cost/benefit trade off analysis must be stressed when dealing in the commercial market place to best suit requirements at lowest cost. The best possible guide for developing a flexible implementation document would be a combination of the first FAR draft and the input to the DAR Council.

8. Utilization of the proposed Acquisition and Distribution of Commercial Products (ADCP) methodology would result in numerous benefits to the Government.

The benefits to be realized through logical interpretation and wise implementation of the ADCP methodology include: Research and Development cost savings and time avoidance, lower unit production costs, a shorter overall acquisition cycle, increases in competition, and improvements in the industrial base. Most are discussed throughout the literature, however it is important to highlight a few of the ideas. Unit production costs, for instance would be lower for two basic reasons: (1) non-recurring costs of R&D are spread out, and (2) high volume production drives unit cost down. The broadened industrial base occurs as commercial suppliers become attuned to Government requirements and the Government way of doing business (and vice versa), and therefore become more capable of responding on a life cycle basis. While some detractors call the ADCP process the death of standardization, that is far from the truth. The Department of Defense can easily standardize on an off-the-shelf commercial product, provided it does not impede technological improvement of the product. In summary, successful implementation will provide for effective commercial acquisition and support planning, resulting in an orderly flow of supportable commercial products which meet user requirements.

9. There should be little, if any, workload increase due to implementation of the proposed Acquisition and Distribution of Commercial Products (ADCP) methodology.

As discussed previously, most if not all of the functions performed under the ADCP methodology are being performed by some element of the acquisition process. There may be a requirement for redefinition of assignments or minor organizational changes, but little or no increase in workload. For example, while the depth and number of market surveys will increase, specification preparation will decrease. Government specification writers should not worry that there will be any degradation of their overall responsibilities; the thrust of ADCP is to eliminate unnecessary specifications. This will permit scarce resources to concentrate on market research and specification upkeep.

10. Individual agency test programs, such as the Commercial Commodity Acquisition Program (CCAP) in the Department of Defense, have shifted the emphasis almost completely away from the original intent of the recommendations of the Commission on Government Procurement.

While the new test programs are extremely beneficial as noted in the examples cited herein, it would appear that little or no attention is now being focussed on the areas of most concern in the Report of the COGP, i.e., small dollar value, rapid utilization, large volume stock items. This area was essentially "washed out" of most policy literature

following the original memoranda from the Office of Federal Procurement Policy.

B. RECOMMENDATIONS

1. Encourage policy formulation and publication, and stress flexible implementation.

Support passage of the Federal Acquisition Reform Act; encourage earliest publication of Parts 10 and 11 of the FAR; encourage emphasis of the program in the DAR; publish a flexible implementation document (DOD Instruction) encouraging logical, subjective utilization of the proposed general methodology, but allowing for organizational freedom in activity implementation. Use FAR draft number 1 and the input for the DAR as guides in preparation of the DOD Instruction, or preparation of a separate handbook for emphasis.

2. Merge the efforts and responsibilities for commercial products acquisition and distribution policy at the OSD level, and below.

The true benefits of the proposed ADCP methodology will be gained only if the entire spectrum is developed as one, integrated policy and methodology. The office of the USD(R&E) should assume responsibility for all aspects of ADCP, with input from ASD(MRA&L).

3. Educate all acquisition personnel in the proposed Acquisition and Distribution of Commercial Products (ADCP) methodology application, stressing the benefits to be derived.

All acquisition personnel, especially those in the systems, subsystems, and components acquisition arena, should be aware of the potential for savings through proper application of the ADCP process. Examples should be publicized; dollars saved should be recognized, and individual initiative rewarded.

4. "Think commercial" when "buying commercial."

Private buyers utilize market surveys, cost benefit trade off analysis, and functional purchase descriptions, when acquiring commercial products and the Government should be no different. Market research and analysis should be recognized as a function and assigned organizationally; commercial market acceptability should not be a strict contract clause, but a subjective decision on the part of the user, requirements generators, specification writers, and the contracting officer. As stressed in the Federal Acquisition Reform Act, new detailed design specifications for commercial products should be discouraged. Proliferation of commercial-type specifications, based on the salient features of many, should be stopped. Necessary quality levels in existing items should be matched to requirements.

5. Closely examine Government volume buying of commercial products.

Stop the mass expenditure of public funds on specification items, bought for stock, which are obsolescent prone. Users should be given freedom of choice in selecting technological needs, unless it can be shown that

standardization is essential. This was the major concern of the Commission on Government Procurement in the area of commercial products acquisition.

APPENDIX A

KEY DEFINITIONS AND ABBREVIATIONS

Commercial, Off-the-Shelf (OTS), Product (also referred to as "commercial products"). A product in regular production sold in substantial quantities to the general public and/or industry at an established market or catalog price.

Commercial Type Product (or "Modified Commercial Product"). A government peculiar product which, though appearing to be a commercial product, is produced to meet a Government need that is different from the commercial need. The product is subjected to a significant physical change or addition and/or may be inspected, packaged, and identified differently from its normal commercial product counterpart. It may be stocked or managed centrally by the Government because its unique nature precludes production for regular commercial supply and distribution.

Established Commercial Market Acceptability. Commercial market acceptability is an evaluation of the product offered, performed for the purpose of determining a prospective contractor's ability to provide a commercial product that will conform to the Government's need. To be market acceptable, a product must be marketed in substantial quantities to the general public. To be substantial, sales to the general public must predominate over sales to the Government. If the commercial products were previously defined by a Government specification, offers of products which were acceptable under the Government specification may be considered under solicitations requiring a product to have established commercial market acceptability.

Government Specification. A document intended primarily for use in contracting, which clearly and accurately describes the essential technical requirements for items, materials, or services.

ADCP - Acquisition and Distribution of Commercial Products

CCAP - Commercial Commodity Acquisition Program

CFR - Code of Federal Regulations

CID - Commercial Item Description

CISP - Commercial Item Support Program

CNO - Chief of Naval Operations
 COGP - Commission on Government Procurement
 DAR - Defense Acquisition Regulations
 DLA - Defense Logistics Agency
 DMSSB - Defense Material Specifications and Standards Board
 DMSSO - Defense Material Specifications and Standards Office
 DOD - Department of Defense
 DPSC - Defense Personnel Support Center
 FAR - Federal Acquisition Regulations
 FPMR - Federal Property Management Regulations
 FPR - Federal Procurement Regulations
 GAO - General Accounting Office
 GSA - General Services Administration

 GSAITSS - General Services Administration Index of Federal Specifications and Standards
 MIL-SPECS - Military Specifications
 NAVAIR - Naval Air Systems Command
 NAVELEX - Naval Electronic Systems Command
 NAVMAT - Naval Material Command
 NAVSEA - Naval Sea Systems Command
 NDI - Nondevelopmental Items
 OFPP - Office of Federal Procurement Policy
 OMB - Office of Management and Budget
 SECNAV(MRA&L) - Secretary of the Navy, Manpower, Reserve Affairs, and Logistics

USD(R&E) - Under Secretary of Defense, Research and
Engineering

APPENDIX B

MAJOR SUBDIVISIONS OF THE PROPOSED FEDERAL ACQUISITION REGULATIONS

Subchapter A - General

- 1-1 Federal Acquisition Regulation System
- 1-2 Definitions and Special Policies
- 1-3 Ethics
- 1-4 Administrative Matters
- 1-5 Publicizing Acquisition Actions
- 1-6 Reserved

Subchapter B - Acquisition Planning

- 1-7 Planning
- 1-8 Required Sources of Supplies and Services
- 1-9 Contractor Qualifications
- 1-10 Acquisition and Distribution of Commercial Products
- 1-11 Reserved
- 1-12 Reserved

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- 1-13 Small Purchase
- 1-14 Formal Advertising
- 1-15 Negotiation
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- 1-17 Special Contracting Methods
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Subchapter D - Socioeconomic Programs

- 1-19 Small Business Concerns
- 1-20 Labor Surplus Area Concerns
- 1-21 Minority Business Enterprises
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- 1-25 Foreign Purchases
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Subchapter E - General Contracting Requirements

- 1-27 Patents, Data, and Copyrights
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- 1-30 Cost Accounting Standards (Includes Consideration of
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Subchapter F - Special Categories of Contracting

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- 1-38 Federal Supply Schedule
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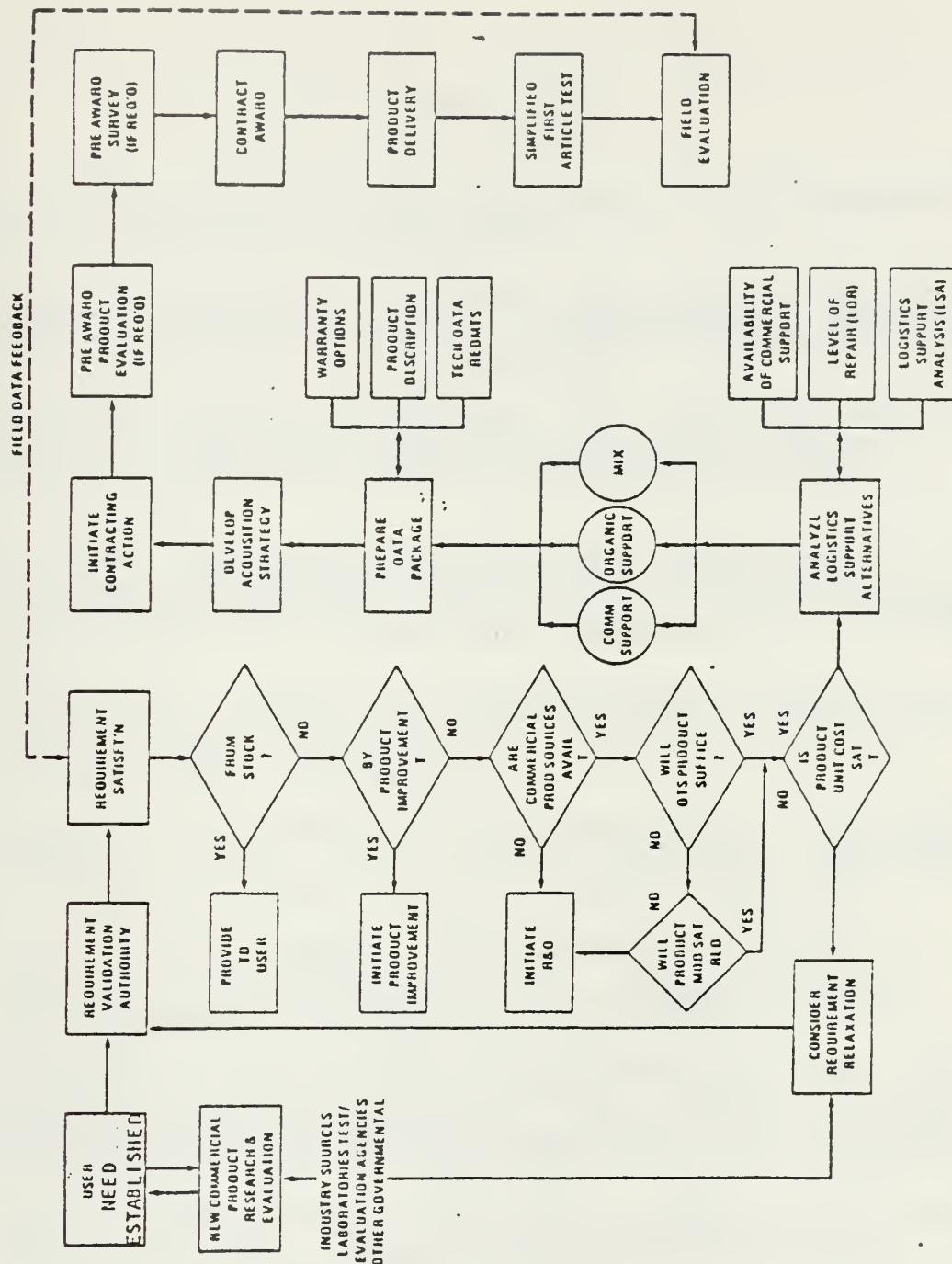
Subchapter G - Contract Management

- 1-42 Contract Administration
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Subchapter H - Clauses and Forms

- 1-52 Contract Clauses and Solicitation Provisions
- 1-53 Forms

ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS METHODOLOGY



SOURCE: DEFENSE MANAGEMENT JOURNAL, July 1977
C. E. Mandel, Jr., "Going Commercial"
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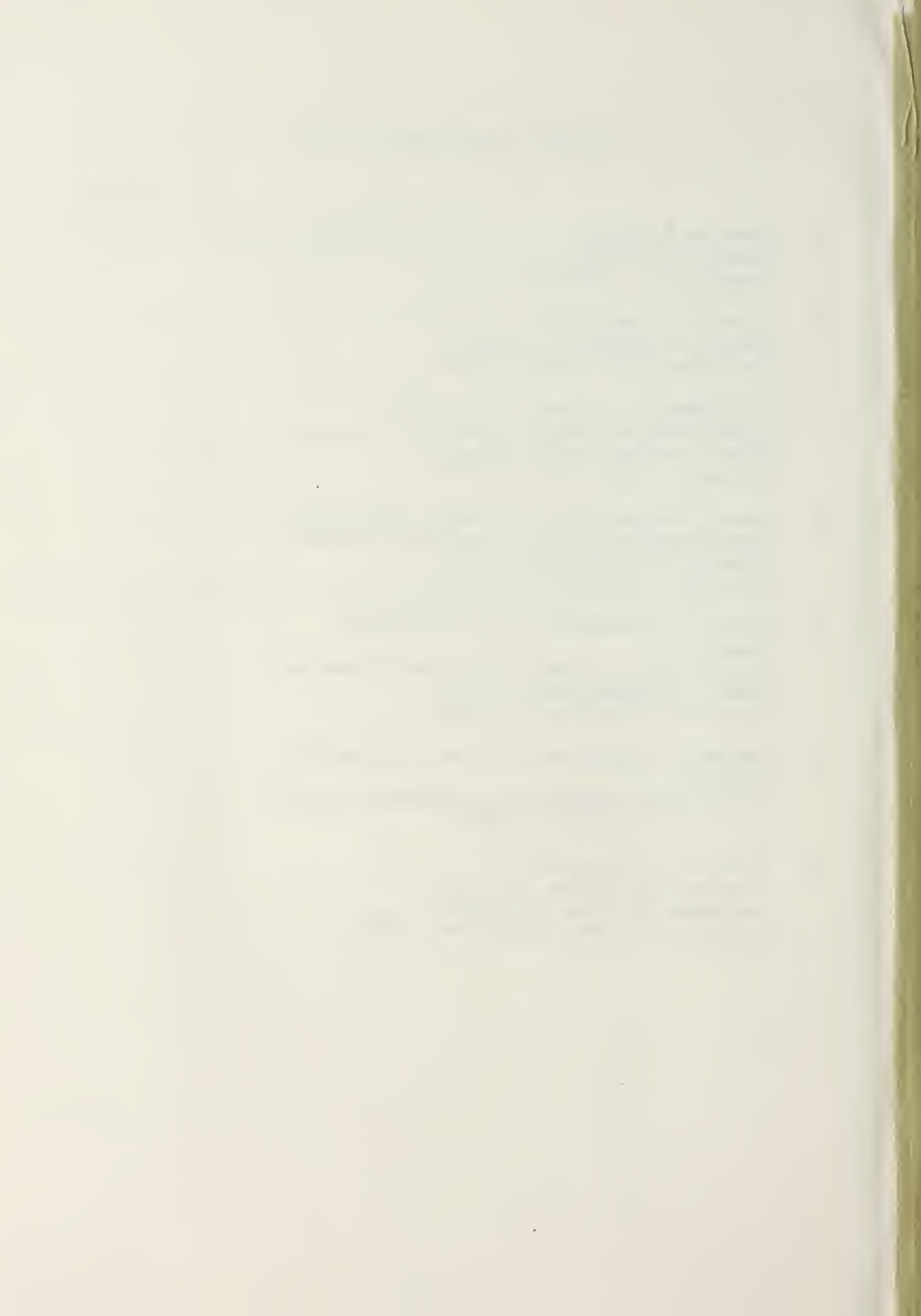
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